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SOUTH CAROLINA
STATE REGISTER

PUBLISHED BY
THE LEGISLATIVE COUNCIL
of the
GENERAL ASSEMBLY

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South Carolina State Register

An official state publication, the *South Carolina State Register* is a temporary update to South Carolina's official compilation of agency regulations--the *South Carolina Code of Regulations*. Changes in regulations, whether by adoption, amendment, repeal or emergency action must be published in the *State Register* pursuant to the provisions of the Administrative Procedures Act. The *State Register* also publishes the Governor's Executive Orders, notices or public hearings and meetings, and other documents issued by state agencies considered to be in the public interest. All documents published in the *State Register* are drafted by state agencies and are published as submitted. Publication of any material in the *State Register* is the official notice of such information.

STYLE AND FORMAT

Documents are arranged within each issue of the *State Register* according to the type of document filed:

Notices are documents considered by the agency to have general public interest.
Notices of Drafting Regulations give interested persons the opportunity to comment during the initial drafting period before regulations are submitted as proposed.
Proposed Regulations are those regulations pending permanent adoption by an agency.
Pending Regulations Submitted to the General Assembly are regulations adopted by the agency pending approval by the General Assembly.
Final Regulations have been permanently adopted by the agency and approved by the General Assembly.
Emergency Regulations have been adopted on an emergency basis by the agency.
Executive Orders are actions issued and taken by the Governor.

2006 PUBLICATION SCHEDULE

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations.*

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/13	2/10	3/10	4/14	5/12	6/9	7/14	8/11	9/8	10/13	11/10	12/8
Publishing Date	1/27	2/24	3/24	4/28	5/26	6/23	7/28	8/25	9/22	10/27	11/24	12/22

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ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

To adopt, amend or repeal a regulation, an agency must publish in the *State Register* a Notice of Drafting; a Notice of the Proposed Regulation that contains an estimate of the proposed action's economic impact; and, a notice that gives the public an opportunity to comment on the proposal. If requested by twenty-five persons, a public hearing must be held at least thirty days after the date of publication of the notice in the *State Register*.

After the date of hearing, the regulation must be submitted to the General Assembly for approval. The General Assembly has one hundred twenty days to consider the regulation. If no legislation is introduced to disapprove or enacted to approve before the expiration of the one-hundred-twenty-day review period, the regulation is approved on the one hundred twentieth day and is effective upon publication in the *State Register*.

EMERGENCY REGULATIONS

An emergency regulation may be promulgated by an agency if the agency finds imminent peril to public health, safety or welfare. Emergency regulations are effective upon filing for a ninety-day period. If the original filing began and expired during the legislative interim, the regulation can be renewed once.

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

Regulations promulgated to comply with federal law are exempt from General Assembly review. Following the notice of proposed regulation and hearing, regulations are submitted to the *State Register* and are effective upon publication.

EFFECTIVE DATE OF REGULATIONS

Final Regulations take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.
Emergency Regulations take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be refiled for one additional ninety-day period.

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South Carolina General Assembly Home Page: www.scstatehouse.net

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2955	R216	SR30-2	Motorist Insurance Identification Database (Repeal)	1/15/06	Department of Public Safety
2958		SR30-2	Voluntary Check-off Funds	1/17/06	Department of Revenue
2935		SR30-2	Property Tax (Repeal 117-8)	1/17/06	Department of Revenue
2915		SR30-2	Repeal of Bulk Sales Regulation	1/17/06	Department of Revenue
2936		SR30-2	Sales and Use Tax Exemption for Machines	1/17/06	Department of Revenue
2937		SR30-2	Alcoholic Beverages, Beer and Wine	1/17/06	Department of Revenue
2914		SR30-2	Electric Power Tax	1/17/06	Department of Revenue
2966		SR30-3	Repeal Annual Renewal Plan	2/19/06	Department of Insurance
2968		SR30-3	Workers' Compensation Assigned Risk Rates	2/19/06	Department of Insurance
2942		SR30-3	Graduation Requirements	2/20/06	Board of Education
2962		SR30-3	Implementation of Emergency Health Powers Act	2/20/06	Department of Health and Envir Control
2945		SR30-3	Standards for Licensing Tattoo Facilities	2/21/06	Department of Health and Envir Control
2973		SR30-4	Repeal of Duplicative Regulations Included in Nurse Practice Act	3/12/06	LLR: Board of Nursing
2971		SR30-4	Assessment Program	3/22/06	Board of Education
2972		SR30-4	Transportation of Unmanufactured Forest Products	3/22/06	Department of Public Safety
2975		SR30-4	211 Network Provider Certification Requirements	4/09/06	Budget and Control Board
2970		SR30-4	Seasons, Limits, Restrictions on WMA's, Turkey Hunting	4/11/06	Department of Natural Resources
2969		SR30-4	Wildlife Management Area Regulations	4/11/06	Department of Natural Resources
2978	R213	SR30-3	CSO Mortality Table	4/22/06	Department of Insurance
2974		SR30-5	Settlement, Proof of Compliance, Self-Ins, Financial, Audits	4/22/06	Workers' Compensation Commission
2976		SR30-5	Representation of Parties and Intervenors	5/10/06	LLR: Occupat Health and Safety Rev Bd
2982		SR30-5	Child Labor	5/10/06	LLR: Office of Labor Services
3014	R264	SR30-4	SC HOPE Scholarship Program	5/10/06	Commission on Higher Education
3015	R265	SR30-4	SC LIFE Scholarship Program	5/10/06	Commission on Higher Education
3016	R266	SR30-4	Lottery Tuition Assist Prog Two-Year Pub & Independ Instit.	5/10/06	Commission on Higher Education
3017	R267	SR30-4	Palmetto Fellows Scholarship Program	5/10/06	Commission on Higher Education
3018	R268	SR30-4	LIFE, HOPE, Palmetto Fellows Scholarships Appeals Regulations	5/10/06	Commission on Higher Education
2999		SR30-5	Additional Areas of Certification	5/10/06	Board of Education
2996		SR30-5	Displaying the Flag	5/10/06	Board of Education
2984		SR30-5	Denial, Revocation and Suspension of Credentials	5/10/06	Board of Education
2995	R279	SR30-5	Fees and Charges of Consumer Credit Counseling Org Licensees	5/10/06	Consumer Affairs
3012		SR30-5	Licensees, Ethics for Supervisors, Standards for Supervision	5/10/06	LLR: Counselors, Therapists, Psycho-Ed
3036		SR30-5	Instant Games, Online Games	5/11/06	SC Lottery Commission
3035	R316	SR30-5	Nurse Licensure Compact	5/11/06	LLR: Board of Nursing
3030		SR30-5	Supervising Licensees	5/11/06	LLR: Board of Nursing
3031		SR30-6	License to Practice Dentistry	5/15/06	LLR: Board of Dentistry
3011		SR30-6	Intrastate Movement of Certain Animals - Sheep and Goats	5/17/06	Clemson University
3007		SR30-6	Imported Fire Ant Quarantine	5/18/06	Clemson University
3008		SR30-6	Soil Amendments	5/18/06	Clemson University
2983		SR30-6	Wired Music	5/20/06	Department of Revenue
3033		SR30-6	Sales and Use Tax - Interstate Commerce	5/20/06	Department of Revenue
2987		SR30-6	ABL - Records	5/20/06	Department of Revenue
3032		SR30-6	Sales and Use Tax - Warranty Agreements	5/20/06	Department of Revenue
2985		SR30-6	Sales and Use Tax - Manufactured and Modular Homes	5/20/06	Department of Revenue
3028		SR30-6	Types and Levels of Credential Classification (Repeal)	5/20/06	Board of Education
3029		SR30-6	Requirements for Credential Advancement (Repeal)	5/20/06	Board of Education
3006		SR30-6	Tidelands and Coastal Waters	5/20/06	Department of Health and Envir Control
3000		SR30-6	Emergency Medical Services	5/20/06	Department of Health and Envir Control
3005		SR30-6	Capacity Use Declar (Repeal);New Groundwater Use and Report	5/20/06	Department of Health and Envir Control
3003	R436	SR30-6	Hazardous Waste Management	5/20/06	Department of Health and Envir Control
3001		SR30-6	Environmental Protection Fees	5/20/06	Department of Health and Envir Control
3004	R423	SR30-6	Prevention and Control of Lead Poisoning in Children	5/20/06	Department of Health and Envir Control

2 REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

Subject to Sine Die Expiration Date Revision

3027 SR30-6	Elementary Sch Food Service Meals and Competitive Foods	6/06/06	Board of Education
3026 R440 SR30-7	Maritime Security	---------	SC Maritime Sec Comm Naval Militia
3040 SR30-7	Hunting in Wildlife Management Areas	6/14/06	Department of Natural Resources
3025 R344 SR30-6	Classified Waters	---------	Department of Health and Envir Control
3047	Milk Producers Tax Credit	1/15/07	Department of Agriculture
3043 R363 SR30-6	State Recognition of Native American Indians	---------	Commission for Minority Affairs
3044 R329 SR30-6	Child Support Guidelines	---------	Department of Social Services
3045 R345 SR30-6	Securities	---------	Office of Attorney General
3057	Retail Licenses And Partnerships	2/01/07	Department of Revenue
3056	End-of-Course Tests	2/01/07	Department of Education
3034 R348 SR30-6	Boiler Safety Program	---------	Dept of Labor, Licensing and Regulation
3059	Highway Advertising Control	3/06/07	Department of Transportation
3022	Licensing of Residential Group Care Organ for Children	3/07/07	Department of Social Services
3060 R450 SR30-7	Professional Employer Organizations	---------	Department of Consumer Affairs
3042	Practice and Procedures	3/20/07	Public Service Commission
3061	Termination of the SCAAIP Joint Underwriting Association	3/21/07	Department of Insurance
3064 R392 SR30-6	Private Security and Private Investigation Businesses	---------	Law Enforcement Division
3052	Telecommunications Utilities	4/09/07	Public Service Commission

Committee Requested Withdrawal:

3021	Penalties Noncompliance Regulated Child Care Settings	Department of Social Services

Permanently Withdrawn: None

Resolution Introduced to Disapprove

2927	The Practice of Selling and Fitting Hearing Aids	Department of Health and Envir Control
3002	Shellfish	Department of Health and Envir Control

EXECUTIVE ORDER NO. 2006-05

WHEREAS, South Carolina's military installations and facilities are essential to the national defense, the safety and security of our citizens; and

WHEREAS, military installations and facilities, personnel and their families, and retirees located in South Carolina are vital components of this State's economy; and

WHEREAS, it is this State's intent to develop programs to assist communities in supporting their local military installations and activities to enable South Carolina to maintain its strong military heritage and presence; and

WHEREAS, South Carolina is committed to create a business climate favorable to military installations and activities, and to enhance the quality of life for military personnel assigned in this State; and

WHEREAS, this State supports the continuing transformation of our armed forces in order to enhance our national defense and reduce base operating costs; and

WHEREAS, facilitating the interaction between government and private sector leadership is crucial in order to maintain a vital United States Department of Defense presence in South Carolina; and

WHEREAS, a coordinated national, state, local, and community effort is fundamental to the strategic planning of the communities associated with this State's military installations and activities.

NOW, THEREFORE, I do hereby reconstitute the South Carolina Military Base Task Force ("Task Force") for the purpose of enhancing the value of military installations, facilities, and personnel located in this State. The Task Force shall assist military communities with such value enhancement, address the various incentives to military personnel assigned in this State, and provide for other methods and incentives to accomplish these purposes. The Task Force shall coordinate efforts among the public and the private sectors to maintain the significant United States Department of Defense presence in South Carolina. The Task Force shall advise the Governor on any issues and strategies related to military base closures, realignments, and mission transformationschanges.

1. The reconstituted Task Force shall be comprised of the following individuals or their designees:

   South Carolina Adjutant General
   Secretary of the South Carolina Department of Commerce
   Director of the Governor's Office of Veterans Affairs
   Executive Director of South Carolina Chamber of Commerce
   Chief Executive Officer of Beaufort Chamber of Commerce
   Chief Executive Officer of Charleston Metro Chamber of Commerce
   Chief Executive Officer of Columbia Chamber of Commerce
   Chief Executive Officer of Sumter Chamber of Commerce
   Chairperson of Beaufort County Council
   Chairperson of Berkeley County Council
   Chairperson of Charleston County Council
   Chairperson of Richland County Council
   Chairperson of Sumter County Council

Mayor of Beaufort
Mayor of Charleston
Mayor of Columbia
Mayor of North Charleston
Mayor of Port Royal
Mayor of Sumter

(a) The Governor shall also appoint one member of the Senate and of the House of Representatives to the Task Force.

(b) The Governor shall appoint five at-large members:

(1) to be eligible for appointment by the Governor as an at-large member, a person must have demonstrated experience in one or more of the following areas: economic development, defense industry, military installation operation, environmental issues, finance, local government, or senior military leadership;

(2) four of the at-large members shall represent, respectively, the four military communities (Beaufort, Charleston, Columbia, and Sumter) and each shall reside in the military community which he/she is appointed to represent;

(3) the Governor shall appoint a fifth at-large member who shall also serve as the Task Force Chairman.

(c) The Governor may designate any one of the members of the Task Force as its Vice-Chairman. If the Governor does not designate a Vice-Chairman, the Task Force shall elect a Vice-Chairman from among its members.

(d) The Governor may provide staff support as necessary, through Task Force funding within the South Carolina Budget and Control Board, to assist the Task Force in carrying out the directives of this Executive Order.

(e) The Task Force Chairman shall appoint an Executive Committee consisting of the Chairman, Vice-Chairman, Adjutant General (or his designated representative), Executive Coordinator, and four (4) of the Task Force membership who represent, respectively, the four military communities (Beaufort, Charleston, Columbia, and Sumter).

2. The Task Force Executive Committee shall also act as an executive advisory committee to the Governor on various military matters that affect this State; and coordinate an annual meeting between the Governor, military commanders, and General Assembly members geographically representing military communities to discuss items of interest to all parties and exchange pertinent information on the current climate and challenges facing our military installations and their personnel.

3. Upon approval of the Governor, the Task Force may pursue specialists to provide information and assistance, develop strategic plans, and assist executing strategies to support military installations and their related military communities to maximize the potential for increased investment by the United States Department of Defense or other defense-related federal agencies and defense-related businesses in this State.

I hereby rescind Executive Order 2003-10. This Order, 2006-05, shall take effect immediately.

GIVEN UNDER MY HAND AND THE
THE GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, THIS 19TH DAY
OF MAY 2006

MARK SANFORD
Governor

EXECUTIVE ORDER NO. 2006-06

WHEREAS, in the morning hours of June 6, 2006, a fire broke out in the JP Stevens No. 3 Mill located in the City of Great Falls, in Chester County, and continues to burn uncontrollably, emitting toxic hydrochloric acids and causing hundreds of families in the surrounding area to be displaced from their homes; and

WHEREAS, the city of Great Falls and Chester County have exhausted their resources and have indicated that the fire is beyond their capability and they have asked for support from the State of South Carolina.

NOW THEREFORE, pursuant to the powers conferred upon me by the Constitution and Laws of the State of South Carolina, I hereby declare that a State of Emergency exists in Chester County, and I direct that the South Carolina Emergency Operations Plan be placed in effect and that the State Emergency Operations Center be activated with the appropriate emergency support function personnel present to provide necessary support for ongoing response operations in Chester County. I further direct that the South Carolina National Guard be placed on state duty and, upon notification by the Emergency Management Division, in consultation with the Governor's Office and the Adjutant General, shall take necessary and prudent actions, as tasked, to respond to the hazards posed by this threat in order to protect life and property.

GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, THIS 8th DAY
OF JUNE, 2006

MARK SANFORD
Governor

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication June 23, 2006, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Charleston County

Relocation of Charleston Plastic Surgery Center, an existing licensed ambulatory surgery facility with two (2) Operating Rooms (ORs), to James Island with a change in name to Roper St. Francis James Island Surgery Center.
Roper St. Francis James Island Surgery Center
Charleston, South Carolina
Project Cost: $8,178,776

Renovation for the relocation from 30 Bee Street, Charleston, South Carolina to St. Francis Medical Plaza, Charleston, South Carolina and replacement of a Positron Emission Tomography (PET) scanner with a Positron Emission Tomography/Computed Tomography (PET/CT) scanner.
Roper St. Francis LowCountry PET Imaging Center.
James Island, South Carolina
Project Cost: $3,352,529

Purchase of a multi-slice Computed Tomography (CT) scanner to replace a single-slice CT scanner at Roper St. Francis Farmfield and the purchase of a single-slice CT scanner at Roper St. Francis Medical Center Northwoods.
Roper St. Francis Farmfield Diagnostic Imaging Center
Roper St. Francis Medical Center Northwoods
Charleston, South Carolina
Project Cost: $1,076,211

Construction for the replacement of the existing mobile Magnetic Resonance Imaging (MRI) unit operating three (3) days per week with a fixed 1.5T MRI unit.
East Cooper Diagnostic Imaging, LLC
Mount Pleasant, South Carolina
Project Cost: $2,122,716

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning June 23, 2006. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Bamberg County

Construction of a fifty-nine (59) bed replacement hospital with two (2) operating rooms (ORs), endoscopy suite, radiology department with a CT scanner and mobile Magnetic Resonance Imaging (MRI) one day per week.
Bamberg County Memorial Hospital
Bamberg, South Carolina
Project Cost: $47,348,822

Affecting Charleston County

Establishment of a CyberKnife Stereotactic Radiosurgery System and construction of the vault to house the system.
Roper Hospital
Charleston, South Carolina
Project Cost: $6,172,000

Construction for the replacement of the existing mobile Magnetic Resonance Imaging (MRI) unit operating three (3) days per week with a fixed 1.5T MRI unit.
East Cooper Diagnostic Imaging, LLC
Mount Pleasant, South Carolina
Project Cost: $2,122,716

Affecting Greenville County

Establishment of a freestanding ambulatory surgery facility to include three (3) licensed endoscopy rooms restricted to gastroenterology procedures only to be located at Greenville Hospital System – Patewood Campus MOB.
Greenville Endoscopy Center at Patewood
Greenville, South Carolina
Project Cost: $2,815,208

Construction of a freestanding ambulatory surgery facility with two (2) operating rooms (ORs).
Piedmont Ambulatory Surgical Center, LLC
Mauldin, South Carolina
Project Cost: $9,073,797

Conversion of thirty-six (36) existing observation beds to general acute care beds for a total licensed bed capacity of seven hundred forty-six (746) general acute care beds.
Greenville Memorial Hospital
Greenville, South Carolina
Project Cost: $0

Addition of fourteen (14) licensed general acute care beds for a total of seventy-two (72) licensed general acute care beds.
Greer Memorial Hospital
Greer, South Carolina
Project Cost: $7,500,000

Affecting Horry County

Replacement of the existing Mobile Positron Emission Tomography (PET) unit approved for use two (2) days per week with Mobile Positron Emission Tomography/Computed Tomography (PET/CT) unit.
Conway Medical Center
Conway, South Carolina
Project Cost: $870,000

Affecting Spartanburg County

Addition of a fixed PET/CT Scanner and discontinuance of the mobile service for SRMC.
Spartanburg Regional Medical Center
Spartanburg, South Carolina

Project Cost: $4,286,560

Affecting York County

Relocation of existing twenty (20) psychiatric beds to the new psychiatric pavilion located on the campus of Piedmont Medical Center with the addition of thirty (30) additional crisis stabilization psychiatric beds for a total of fifty (50) psychiatric beds.
Piedmont Medical Center
Rock Hill, South Carolina
Project Cost: $8,586,116

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act.

Class I Contractors perform work involving the collection and interpretation of investigative data; the evaluation of risk; and/or the design and implementation of corrective action plans. Class I applicants must satisfy registration requirements for a Professional Engineer or Geologist in South Carolina. Class II Contractors perform work involving routine investigative activities (e.g., soil or ground water sampling, well installation, aquifer testing) where said activities do not require interpretation of the data and are performed in accordance with established regulatory or industry standards.

Pursuant to Section IV.B.1. the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than July 24, 2006 to:

Contractor Certification Program
South Carolina Department of Health and Environmental Control
Bureau of Land and Waste Management - Underground Storage Tank Program
Attn: Laura Jean Pace
2600 Bull Street
Columbia, SC 29201

The following companies and/or individuals have applied for certification as Underground Storage Tank Site Rehabilitation Contractors:

Class I	Class II.
Greenleaf Environmental Services	

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 6-9-40 of the 1976 Code of Laws of South Carolina, as amended, the South Carolina Building Codes Council intends to adopt the following building codes for use in the state of South Carolina:

2006 Edition of the International Building Code;
2006 Edition of the International Residential Code;
2006 Edition of the International Fire Code;
2006 Edition of the International Plumbing Code;
2006 Edition of the International Mechanical Code;
2006 Edition of the International Fuel Gas Code;
2006 Edition of the International Energy Conservation Code.
2006 Edition of the International Property Maintenance Code;
2006 Edition of the International Existing Building Code.

The Council specifically requests comments concerning sections of the proposed editions, which may be unsuitable for enforcement in South Carolina. Written comments may be submitted on or before December 1, 2006 to Gary F. Wiggins, Administrator, Post Office Box 11329, Columbia, SC 29211-1329.

DEPARTMENT OF AGRICULTURE
CHAPTER 5
Statutory Authority: 1976 Code Section 46-15-20.

Notice of Drafting:

The South Carolina Department of Agriculture is considering modernizing, clarifying and updating the existing regulations which govern, to the extent authorized by the S.C. Code, Title 46, Chapter 15, the operating procedures at the state farmers markets.

Interested parties should submit written comments to Anne E. Crocker, South Carolina Department of Agriculture, P.O. Box 11280, Columbia, SC 29211-1280. To be considered, comments should be received no later than July 31, 2006, the close of the drafting comment period.

Synopsis:

The proposed amendments will include repeal of the current gate fee structure and may include implementation of a new gate fee structure. Other proposed amendments include clarification of advertising procedures, employer responsibilities, fire hazard control measures, and unacceptable behavior on the Market.

These proposed regulations will require legislative action.

CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
CHAPTER 27
Statutory Authority: 1976 Code Section 47-4-30 and 47-17-130

Notice of Drafting:

The Livestock-Poultry Health Commission is considering modernizing, clarifying and updating existing regulations which govern, to the extent authorized by S. C. Code, Title 47, Chapter 4, the inspection or meat and meat food products produced for intrastate commerce.

Interested parties should submit written comments to Dr. Daniel E. Lafontaine, Director, State Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, S. C. 29224-2406. To be considered comments should be received no later than July 28, 2006, the close of the drafting comment period.

Synopsis:

This regulation is being promulgated to comply with the Federal Meat Inspection Act (21 USDA 661, Section 301) which establishes Federal-State Cooperative Meat Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations at least as stringent as those adopted by the United States Government. This regulation will, in effect, adopt the current Federal Meat Inspection Regulations with some minor exceptions for some state specific requirements, such as utilizing state marks of inspection, designating use of state holidays and other similar requirements.

This regulation will not require legislative action.

CLEMSON UNIVERSITY
STATE LIVETOCK-POULTRY HEALTH COMMISSION
CHAPTER 27
Statutory Authority: 1976 Code Sections 47-4-30, 47-19-30, and 47-19-170

Notice of Drafting:

The Livestock-Poultry Health Commission is considering modernizing, clarifying and updating existing regulations which govern, to the extent authorized by S.C. Code, Title 47, Chapter 4, the inspection of poultry products produced for intrastate commerce.

Interested parties should submit written comments to Dr. Daniel E. Lafontaine, Director, State Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, S.C. 29224-2406. To be considered comments should be received no later than July 28, 2006, the close of the drafting comment period.

Synopsis:

This regulation is being promulgated to comply with the Poultry Products Inspection Act (21 USCA 454, Section 5) which establishes Federal-State Cooperative Poultry Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations at least as stringent as those adopted by the United States Government. This regulation will, in effect, adopt the current Federal Poultry Products Inspection Regulations with some minor exceptions for some state specific requirements, such as utilizing state marks of inspection, designating use of state holidays, and other similar requirements.

This regulation will not require legislative action.

STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: S. C. Code Ann. §§ 59-5-60 (2004) and 59-18-710 (2004)

Notice of Drafting:

The State Board of Education will consider amendments to Regulation 43-300, Accreditation Criteria, to reflect provisions of the Education Accountability Act and other ways to become accredited. Interested persons may submit comments to Lucinda Saylor, Deputy Superintendent, Division of Curriculum Services and Assessment, State Department of Education, 1429 Senate Street, Room 805, Rutledge Building, Columbia, South Carolina 29201 or by e-mail to csaylor@sde.state.sc.us. To be considered, comments must be received no later than 5:00 P.M., on July 24, 2006, the close of the drafting comment period.

Synopsis:

The State Board of Education is considering promulgating amendments to Regulation 43-300, Accreditation Criteria. The amendment would update this regulation to comply with the Education Accountability Act that requires the State Board of Education to "promulgate regulations outlining the criteria for the state's accreditation system which must include student academic performance" (S.C. Code Ann. § 59-18-710 (2004)). The accreditation criteria are expanded to include additional ways to become accredited. An alternative accreditation process may also be considered.

Legislative review of this regulation will be required.

STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: S.C. Code Ann. Section: 59-5-60 (2004) and 20 U.S.C. § 6301 *et seq.* (2002)

Notice of Drafting:

The State Board of Education will consider amendments to Regulation 43-205, Administrative and Professional Personnel Qualifications, Duties and Workloads, to align with provisions of the Education and Economic Development Act and other state and federal statutes and regulations.

Interested persons may submit comments to Ms. Lucinda Saylor, Deputy Superintendent, Division of Curriculum Services and Assessment, State Department of Education, 1429 Senate Street, Room 805, Rutledge Building, Columbia, South Carolina 29201, or by e-mail to csaylor@sde.state.sc.us. To be considered, comments must be received no later than 5:00 P.M., on July 24, 2006, the close of the drafting comment period.

Synopsis:

The State Board of Education is considering promulgating amendments to Regulation 43-205, Administrative and Professional Personnel Qualifications, Duties and Workloads. The amendments would update this regulation to include guidance and physical education requirements changed by legislation, to align the effective dates and areas of disability for implementing the No Child Left Behind Act 20 U.S.C. § 6301 *et seq.* (2002) and the reauthorization of the Individuals with Disabilities Education Act (IDEA).

Legislative review of this regulation will be required.

STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: S. C. Code Ann. § 59-40-10 *et seq.*

Notice of Drafting:

The State Board of Education proposes to amend regulation 43-600, Charter School Appeal, to address the changes to the Charter School Act. Interested persons may submit comments to Mr. J.C. Ballew, Jr., Office of Safe Schools and Youth Services, Division of District and Community Services, State Department Education, 1429 Senate Street, Rutledge Building, Room 605, Columbia, South Carolina 29201. To be considered, comments must be received no later than 5:00 P.M., July 24, 2005, the close of the drafting period.

Synopsis:

The proposed of this amendment is to modify the charter school appeal process as required by the changes to the Charter School Act.

Legislative review of this regulation will be required.

STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: S. C. Code Ann. § 59-5-60(1) (2004), § 59-26-10, *et seq.* (2004), and 20 U.S.C. § 6301 *et seq.* (2002)

Notice of Drafting:

The State Department of Education proposes to repeal and amend regulations governing Educator Quality and School Leadership. Interested persons may submit their comments in writing to Dr. Janice Poda, Deputy Superintendent, Division of Educator Quality and School Leadership, 3700 Forest Drive, Suite 500, Columbia, South Carolina 29204 or by e-mail to jpoda@scteachers.org. To be considered, all comments must be received no later than 5:00 p.m. on July 24, 2006.

Synopsis:

The enactment of the No Child Left Behind Act (NCLB), the South Carolina Education Accountability Act (EAA), and other state and federal legislation creates the need for restructuring the state system for training, certifying and evaluating teachers.

Legislative review of this regulation may be required.

STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: S. C. Code Ann. § 59-5-60 (2004), Graduate Requirements, 24 S.C. Code Ann. Regs 43-259 (to be codified at Supp. 2006)

Notice of Drafting:

The State Board of Education proposes to amend R43-259 (March 22, 2006), Graduate Requirements, 24 S.C. Code Ann. Regs 43-259 (to be codified at Supp. 2006), that addresses the instructional aspects of adult education, literacy, adult basic education, and adult secondary programs. Revision will also include the funding of eligible local adult education program providers. Interested persons may submit comments to L. Cherry Daniel, EdD, Director, Office of Adult and Community Education, State Department of Education, 1429 Senate Street, Rutledge Building, Room 902, Columbia, South Carolina 29201 or by e-mail to cdaniel@sde.state.sc.us. To be considered, comments must be received no later than July 24, 2006, the close of the drafting period.

Synopsis:

The proposed amendments will align the regulation with the federal No Child Left Behind Act teacher certification requirements, state virtual on-line learning, and funding eligible providers based partially on their performance.

Legislative review of this regulation will be required.

STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: S. C. Code Ann. § 59-5-60 (2004), 2005 Act No. 88 § 4

Notice of Drafting:

Effective May 27, 2005, the General Assembly repealed S.C. Code Ann. §§ 59-52-10 through 59-52-150, The School-to-Work Transition Act of 1994. The State Board of Education, therefore, proposes to repeal Regulation 43-225, School-to-Work Transition Act Regulation. Interested persons may submit comments to Dr. Bob Couch, Director, Office of Career and Technology Education, Division of District and Community Services, State Department Education, 1429 Senate Street, Rutledge Building, Room 912, Columbia, South Carolina 29201 or by e-mail to bcouch@sde.state.sc.us. To be considered, comments must be received no later than 5:00 P.M., July 24, 2006, the close of the drafting period.

Synopsis:

The General Assembly repealed S.C. Code Ann. § 59-52-10 to § 59-52-150 upon passage of the Education and Economic Development Act of 2005, S.C. Code Ann. § 59-59-10 *et seq*. Regulation 43-225, School-to-Work Transition Act Regulation, needs to be repealed.

Legislative review of this regulation will be required.

STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: S.C. Code Ann. § 59-5-60 (2004), § 59-18-110 (2004), § 59-29-10, *et seq*. (2004), § 59-29-200 (2004), § 59-33-30 (2004), § 59-53-1810 (2004), 20 U.S.C. § 1232(g) 20 U.S.C. § 6301 *et seq.* (2002)

Notice of Drafting:

The State Board of Education will consider amendments to Regulation 43-234, Defined Program, Grades 9–12 to align with provisions of the Education and Economic Development Act (EEDA), the recommendations of the High School Redesign Commission (HSRC) and amendments to the requirements for a state high school diploma.

Interested persons may submit comments to Ms. Lucinda Saylor, Deputy Superintendent, Division of Curriculum Services and Assessment, State Department of Education, 1429 Senate Street, Room 805, Rutledge Building, Columbia, South Carolina 29201 or by e-mail to csaylor@sde.state.sc.us. To be considered, comments must be received no later than 5:00 P.M., on July 24, 2006, the close of the drafting comment period.

Synopsis:

The State Board of Education is considering promulgating amendments to Regulation 43-234, Defined Program, Grades 9–12. The goals of the EEDA and HSRC set the tenor for the high school curriculum by requiring district boards of trustees to approve career majors focusing on individual graduation plans. “Seat time” requirements to earn a unit of credit are replaced by the student’s ability to meet specified curriculum standards. Two courses that do not meet the EEDA intensity for rigor are removed. The length of the instructional day is eliminated due to the repeal of S.C. Code Ann. § 59-1-440 (2004). Aligning this regulation with an amendment to R 43-259, Graduation Requirements, allows students to earn one unit of high school credit for a three-hour post-secondary dual credit course.

Amendments to the requirements for a diploma include specifying a physical science credit as one of the three science credits, clarifying diploma requirements for students with disabilities as a result of 20 U.S.C. § 6301 et seq. (2002), No Child Left Behind Act and simplifying the requirements for co-mingling students with mild disabilities as determined by the individual education plan.

Legislative review of this regulation will be required.

STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: S. C. Code Ann. § 59-5-65 and 59-65-90 (2004)

Notice of Drafting:

The State Board of Education proposes to amend R 43-274, Student Attendance, to incorporate recommendations from the High School Redesign Commission. Interested persons may submit comments to Yvonne McBride, Office of Safe Schools and Youth Services, State Department Education, 1429 Senate Street, Rutledge Building, Room 606-A, Columbia, South Carolina 29201 or by e-mail to ymcbride@sde.state.sc.us. To be considered, comments must be received no later than 5:00 P.M., July 24, 2006, the close of the drafting period.

Synopsis:

The proposed amendment will be to the section of R 43-274, Student Attendance, which addresses make-up work and will incorporate the recommendations of the High School Redesign Commission including removing the reference to 120 hours of seat time to receive credit for each unit of study.

Legislative review of this regulation will be required.

STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: S.C. Code Ann. § 59-5-60(2004), § 59-33-10 *et seq*. (2004), and § 59-21-510 *et seq*. (2004)

Notice of Drafting:

The State Board of Education proposes to draft substantial revisions and additional regulations governing the education of students with disabilities. Interested persons may submit their comments in writing to Ms. Lucinda Saylor, Deputy Superintendent, Division of Curriculum Services and Assessment, 805 Rutledge Building, 1429 Senate Street, Columbia, South Carolina 29201 or by e-mail to csaylor@sde.state.sc.us. To be considered, all comments must be received no later than 5:00 p.m. on July 24, 2006, the close of the drafting comment period.

Synopsis:

The reauthorization of the Individuals with Disabilities Education Act creates the need for amending the state's requirements regarding the provision of a free and appropriate education to students with disabilities.

Legislative review of sections of this regulation may be required.

STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: S.C. Code Ann. § 59-5-60 (2004) and §59-30-10, et seq, (2004)

Notice of Drafting:

The State Board of Education proposes the repeal of R 43-262.3, Reading, Writing, and Mathematics Objectives for Grades 9–12, required by § 59-30-10 *et. seq*. (2004). Interested persons may submit comments to Dr. Theresa Siskind, Office of Assessment, Division of Curriculum Services and Assessment, State Department of Education, Rutledge Building, Rm 607, 1429 Senate, Columbia, SC 29201 or by e-mail to tsiskind@sde.state.sc.us. To be considered comments must be received not later than July 24, 2006, the close of the drafting comment period.

Synopsis:

The regulation is no longer needed because the High School Assessment Program, which assesses the current content standards, has replaced the Basic Skills Assessment Program (BSAP) exit examination that students in South Carolina are expected to know and be able to do. All other regulations relating to the BSAP have been repealed previously.

Legislative review of this regulation will be required.

STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: S.C. Code Ann. § 59-5-60 (1, 3, and 6)(2004)

Notice of Drafting:

The State Board of Education proposes to amend R 43-259, Graduation Requirements, to establish a specific length of time between the date of school withdrawal for school age GED candidates and administration of the Tests of General Educational Development and the time at which a school age GED candidate may reenroll in school. This amendment will also allow the State Board of Education to award a Spanish High School Equivalency Certificate to candidates that pass the Spanish edition of the Tests of General Educational Development. Interested persons may submit comments to David B. Stout, Office of Adult and Community Education, State Department Education, 1429 Senate Street, Rutledge Building, Room 402, Columbia, South Carolina 29201 or by e-mail to dstout@sde.state.sc.us To be considered, comments must be received no later than 5:00 P.M., July 24, 2006, the close of the drafting period.

Synopsis:

The proposed amendment will be to the section of R 43-259, Graduation Requirements, which addresses the State High School Equivalency Diploma (GED Examination). The amendment will require that a candidate for a high school equivalency diploma who is seventeen or eighteen years of age be officially withdrawn from school a minimum of fourteen days prior to sitting for the Tests of General Educational Development and may not reenroll in school until receiving an official GED score report indicating failure of the Tests of General Educational Development. Candidates that successfully pass the Spanish edition of the Tests of General Educational Development after January 1, 2003, will be awarded a high school equivalency certificate indicating successful passage of a direct translation of the English edition of the Tests of General Educational Development. The certificate will also indicate that the candidate did not show proof of English competency.

Legislative review of these proposals will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: S.C. Code Section 44-1-140, 48-1-30, and 44-87-10 *et seq.*

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend Regulation 61-86.1, *Standards of Performance for Asbestos Projects,* to update fees as necessary to provide adequate funding for the asbestos program, to update and clarify portions of the regulation, and to reorganize portions of the regulation. Interested persons are invited to present their views in writing to Anthony T. Lofton; Division of Air Planning, Development and Outreach; Bureau of Air Quality; 2600 Bull Street; Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on Monday, July 24, 2006, the close of the drafting period.

Synopsis

The Department proposes to amend Regulation 61-86.1, *Standards of Performance for Asbestos Projects,* as necessary, to provide adequate funding for the implementation and enforcement of the asbestos program. In 2005, the South Carolina asbestos statute, *Asbestos Abatement License,* S.C. Code Ann. §44-87-10, *et seq*., was revised to allow the Department by regulation to establish fees sufficient to cover reasonable costs associated with the development, processing, and administration of the asbestos program. Regulation 61-86.1 will be revised to provide adequate funding for the asbestos program and will take into account current fees assessed by other Southeastern states and historical costs of program operation. This proposed amendment will also update and clarify certain sections of the regulation to be consistent with the Federal Regulation where applicable, clarify certain sections of the regulation to improve compliance rates, and to reorganize parts of the regulation to be more user friendly.

The proposed amendments to Regulation 61-86.1, *Standards of Performance for Asbestos Projects,* will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 44-96-10, et seq.

Notice of Drafting:

The Department of Health and Environmental Control is proposing to amend R.61-107, Solid waste Management Regulations. Interested persons may submit their views by writing to Art Braswell at S.C. Department of Health and Environmental Control, Bureau of Land and Waste Management, 2600 Bull Street, Columbia, S.C. 29201. To be considered, written comments must be received no later than 5:00 p.m. on Monday, July 24, 2006, the close of the drafting period.

Synopsis:

The Department is proposing to amend R. 61-107, Solid Waste Management Regulations. The Department proposes to simultaneously repeal sections 61-107.11 Solid Waste Management: Construction, Demolition, and Land-clearing Debris Landfills, 61-107.13 SWM: Municipal Solid Waste Incinerator Ash Landfills, R.61-107.16 SWM: Industrial Solid Waste Landfills, and R.61-107.258 SWM: Municipal Solid Waste Landfills, and replace them with a new section that encompasses all solid waste landfills and structural fill activities to include a change to broaden disposal options. Legislative review will be required.

Document No. 3066
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: S.C. Code Section 48-1-10 *et seq.*

Regulation 61-62, ***Air Pollution Control Regulations and Standards***

Preamble:

The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR Parts 60 and 63 throughout each calendar year. Recent Federal amendments include clarification, guidance and technical amendments regarding New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories. The Department proposes to amend Regulations 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*, and 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*, to incorporate recent Federal amendments promulgated during the period from January 1, 2005, through December 31, 2005.

The proposed amendments to Regulation 61-62, *Air Pollution Control Regulations and Standards,* are necessary to maintain consistency with Federal rules and will not require legislative review.

A Notice of Drafting for these proposed changes was published in the *State Register* on December 23, 2005. Since this amendment is consistent with Federal law, neither a preliminary fiscal impact statement nor a preliminary assessment report is required.

Discussion of Proposed Revisions:

SECTION CITATION:	EXPLANATION OF CHANGE:
R. 61-62.60	Tables in Subparts A, B, Da, AA, AAa, CCCC, and DDDD are amended.
R. 61-62.60	Subparts EEEE, FFFF, GGGG, and HHHH are added.
R. 61-62.60 (Subpart DDDD)	Add "and as subsequently amended upon publication in the *Federal Register*" to introductory paragraph.
R.61-62.63	Tables in subparts A, C, E, G, L, M, N, O, T, LL, XX, YY, EEE, GGG, QQQ, RRR, UUU, FFFF, TTTT, UUUU, WWWW, CCCCC, DDDDD, EEEEE, HHHHH, and LLLLL are amended.
R. 61-62.63 (Table 1 to Subpart B)	Application Due Date for Industrial Boilers, Institutional/Commercial Boilers, Process Heaters, and Hydrochloric Acid Production MACT Standards is changed.
R. 61-62.63 (Subpart WW)	Add "*Register* and as subsequently amended upon publication in the *Federal Register"* to introductory paragraph.

R. 61-62.63 (Subpart XX)	Add "*Register* and as subsequently amended upon publication in the *Federal Register"* to introductory paragraph.
R. 61-62.63 (Subpart QQQ)	Add "and as subsequently amended upon publication in the *Federal Register*" to introductory paragraph.
R. 61-62.63 (Subpart DDDD)	Typographical error in table corrected.
R. 61-62.63 (Subpart FFFF)	Add "and as subsequently amended upon publication in the *Federal Register*" to introductory paragraph.
R. 61-62.63 (Subpart OOOO)	Add "and as subsequently amended upon publication in the *Federal Register*" to introductory paragraph.
R. 61-62.63 (Subpart TTTT)	Add "and as subsequently amended upon publication in the *Federal Register*" to introductory paragraph.
R. 61-62.63 (Subpart UUUU)	Add "and as subsequently amended upon publication in the *Federal Register*" to introductory paragraph.
R. 61-62.63 (Subpart WWWW)	Add "and as subsequently amended upon publication in the *Federal Register*" to introductory paragraph.
R. 61-62.63 (Subpart CCCCC)	Add "and as subsequently amended upon publication in the *Federal Register*" to introductory paragraph.
R. 61-62.63 (Subpart EEEEE)	Add "and as subsequently amended upon publication in the *Federal Register*" to introductory paragraph.

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invites interested members of the public to attend a staff-conducted informational forum to be held on July 24, 2006 at 10:00 a.m. in room 2380 at the Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The purpose of the forum is to answer questions, clarify any issues, and receive comments from interested persons on the proposed amendments to Regulation 61-62, *Air Pollution Control Regulations and Standards*.

Interested persons are also provided an opportunity to submit written comments to Anthony T. Lofton at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on July 24, 2006. Comments received at the forum or during the write-in public comment period shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Anthony T. Lofton at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-7217.

Notice of Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Sections 1-23-110 and 1-23-111:

Interested members of the public and regulated community are invited to comment on the proposed amendments to Regulation 61-62, *Air Pollution Control Regulations and Standards* at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on September 14, 2006. The public hearing is to be held in room 3420 (Board Room) of the Commissioner's Suite, third floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department twenty-four hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: Amendments to Regulation 61-62, *Air Pollution Control Regulations and Standards.*

Purpose of Regulation: These amendments and corrections will maintain conformity with Federal requirements and ensure compliance with Federal standards.

Legal Authority: The legal authority for Regulation 61-62, *Air Pollution Control Regulations and Standards*, is S.C. Code Section 48-1-10 *et seq.*

Plan for Implementation: The proposed amendments will take effect upon approval and adoption by the South Carolina Board of Health and Environmental Control and publication in the *State Register.*

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATIONS BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR Parts 60 and 63 throughout each calendar year. Recent Federal amendments include clarification, guidance and technical amendments regarding New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories. The Department proposes to amend Regulations 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*, and 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*, to incorporate recent Federal amendments promulgated during the period from January 1, 2005, through December 31, 2005.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions as a result of these amendments. The standards to be adopted are already effective and applicable to the regulated community as a matter of Federal law. The proposed amendments will benefit the regulated community by clarifying the regulations and increasing their ease of use.

UNCERTAINTIES OF ESTIMATES:

EPA has provided the estimated costs and benefits for these standards in the *Federal Register* notices that are cited within this document.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Adoption of the recent changes in Federal law through the proposed amendments to Regulation 61-62, *Air Pollution Control Regulations and Standards*, will provide continued protection of the environment and public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED:

While there is no specific detrimental effect on the environment and public health, the State's authority to implement Federal requirements, which are believed to be beneficial to the public health and environment, would be compromised if these amendments were not adopted in South Carolina.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: **http://www.scstatehouse.net/regnsrch.htm.** Full text may also be obtained from the promulgating agency.

Document No. 3067

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: S.C. Code Ann. Sections 13-7-10 *et seq*. (1976 & Supp. 2005); 13-7-40.

R.61-63 Radioactive Materials (Title A)

Preamble:

The Nuclear Regulatory Commission (USNRC) promulgates amendments to 10 CFR 30, 40, 70, and 71 throughout each calendar year. Recent amendments include requirements for Financial Assurance for Material Licenses and Transportation Safety Standards. These rules have been published in the Federal Register between October 3, 2003 and January 26, 2004, at 68 FR 57327 on October 3, 2003, and 69 FR 3698 on January 26, 2004. The Final Rule and corrections are reflected in 10 CFR Part 71 as revised January 1, 2006.

The Department intends to amend R.61-63 to maintain conformity with federal requirements for Financial Assurance for Material Licensees as found in 10 CFR 30, 40, and 70 and the Transportation Safety Standards as found in 10 CFR 71 and ensure compliance with federal standards as required by Section 274 of the Atomic Energy Act of 1954. The transportation regulations will be incorporated by reference into R.61-63.

These amendments will not be more stringent than the federal equivalent, and legislative review will not be required, nor is a preliminary assessment report or fiscal impact statement required.

A Notice of Drafting for the proposed amendments was published in the State Register on March 24, 2006. Notice was also published on the Department's Regulatory Information Internet site in its monthly Regulation Development Update, as well as on the DHEC Land and Waste Management Internet site. No comments were received.

Discussion of Proposed Revision:

SECTION	CHANGE
1.15.3. 1-4	Replace paragraph requiring decommissioning funding plan
1.15.4	Replace paragraph determining which submission depending on sections
1.15.4.1	Change RHA number from 1.15.10 to 1.15.11

1.15.4.2	Delete reference to Table 1 and replace with reference to RHA 1.15.10; delete all references to methods described in RHA 1.15.11 (three times) and change to methods described in 1.15.12;
1.15.5	Delete last phrase: "...the criteria set forth in this section" and replace with RHA 1.15.12
1.15.6	Replace paragraph regarding certification requirements for financial assurance
1.15.7	Replace paragraph regarding details of certification
1.15.8	Replace paragraph regarding details of certification
1.15.9 (i)-(iii)	Replace paragraph 1.15.9 lead in and (i)-(iii) with one paragraph 1.15.9 describing financial assurance requirements for waste collectors and processors
1.15.10	Replace paragraph and insert Table 1 (i)-(iii) with details of required amounts of financial assurance for decommissioning
1.15.11.1-4	Replace with paragraph 1.15.11 detailing requirements for determining decommissioning funding plan
1.15.12.1-4	Replace with paragraph lead in and .1-.4 details methods of financial assurance
1.15.13.1-4	Add paragraphs on details for record keeping
	Part II Transportation of Radioactive Material
2.22.1	Remove "..the U.S. Department of Transportation" and replace with the words: "the Nuclear Regulatory Commission contained in Title 10 CFR Part 71 as revised January 1, 2006"

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invite interested members of the public and regulated community to attend a staff-conducted informational forum to be held on Monday, July 31, 2006, at 10:30 a.m. in Room 1710 of the Stern Building at 8911 Farrow Road, Suite 106. The purpose of the forum is to answer questions and to receive public comments from interested persons on the proposed amendment of R.61-63. Comments received at the informational forum shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing noticed below.

Notice of Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Sections 1-23-110 and 1-23-111:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed amendment of R.61-63 at a public hearing to be conducted by the Board of Health and Environmental control at its regularly scheduled meeting on September 14, 2006. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The Board's agenda will be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Henry Porter, Assistant Director of the Division of Waste Management, at 2600 Bull Street, Columbia, SC 29201. Written comments must be received no later than July 31, 2006, the close of the public comment period. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for public hearing on September 14, 2006, as noticed above. Comments received by the deadline date shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

Information or copies of the proposed text for public notice and comment may be obtained at http://www.scdhec.gov/lwm/html/public.html or by calling Michael Moore at (803)896-4181.

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness complies with S.C. Code Ann. Section 1-23-115(c)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: Proposed amendment of R.61-63 Radioactive Materials (Title A)

Purpose: The Nuclear Regulatory Commission (USNRC) promulgates amendments to 10 CFR 30, 40, 70, and 71 throughout each calendar year. Recent amendments include requirements for Financial Assurance for Material Licenses and Transportation Safety Standards. These rules have been published in the Federal Register between October 3, 2003 and January 26, 2004, at 68 FR 57327 on October 3, 2003, and 69 FR 3698 on January 26, 2004. The Final Rule and corrections are reflected in 10 CFR Part 71 as revised January 1, 2006.

The Department intends to amend R.61-63 to adopt these federal regulations to maintain conformity with federal requirements for Financial Assurance for Material Licensees as found in 10 CFR 30, 40, and 70 and the Transportation Safety Standards as found in 10 CFR 71 and ensure compliance with federal standards as required by Section 274 of the Atomic Energy Act of 1954. The transportation regulations will be incorporated by reference into R.61-63.

Legal Authority: S.C. Code Ann. Sections 13-7-10 *et seq*. (1976 & Supp. 2005); 13-7-40.

Plan for Implementation: Upon final approval by the Board of Health and Environmental Control and publication in the State Register as a final regulation, amended regulations will be provided to the regulated community at cost through the Department's Freedom of Information Office.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: Adoption of the proposed amendments of R.61-63 will enable compliance with recent federal amendments. See purpose above.

DETERMINATION OF COSTS AND BENEFITS This regulatory amendment is exempt from the requirements of a Preliminary Fiscal Impact Statement or a Preliminary Assessment Report because the proposed changes are necessary to maintain compliance with federal regulations. There are no known additional costs to the state and its political subdivisions. Licensees must provide financial assurance as set forth in the regulations. See Federal Register for details.

UNCERTAINTIES OF ESTIMATES: There are no known uncertainties.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH: This amendment will provide the updates to the financial assurances and recordkeeping for decommissioning requirements for radioactive materials licensees and the transportation safety standards for radioactive materials. The adoption of this regulation will ensure an effective regulatory program for radioactive material users under state jurisdiction and protection of the public and workers from unnecessary exposure to ionizing radiation. These changes will provide the updates to the transportation safety standards for radioactive materials.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: The State's authority to implement federal requirements, which are believed to be beneficial to the public health and environment, would be compromised if these amendments were not adopted in South Carolina.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: **http://www.scstatehouse.net/regnsrch.htm.** Full text may also be obtained from the promulgating agency.

Document No. 3068
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: S.C. Code Ann. Sections 13-7-10 *et seq*.; 13-7-40

R.61-83. Transportation of Radioactive Waste Into or Within South Carolina

Preamble:

The United States Nuclear Regulatory Commission (USNRC) promulgates amendments to 10 CFR 71 throughout each calendar year. Recent amendments include requirements for the Transportation Safety Standards. These rules were published in the Federal Register on January 26, 2004, at 69 FR 3698. Corrections to the Final Rule were published in the Federal Register on February 10, 2004 at 69 FR 6139 and September 29, 2004 at 69 FR 58038. The Final Rule and corrections are reflected in 10 CFR Part 71 as revised January 1, 2006. The State is required to adopt certain federal amendments within three years of the effective date of changes in NRC regulations to maintain authorization by the USNRC for the State Radioactive Waste Management Program.

The Department intends to amend R.61-83, Transportation of Radioactive Waste Into or Within South Carolina, to maintain conformity with the federal requirements for Transportation Safety standards as found in 10 CFR 71 and ensure compliance with federal standards as required by Section 274 of the Atomic Energy Act of 1954. This amendment will incorporate the transportation regulations by reference at section 61-83.1.2. This amendment will not be more stringent than the federal equivalent and will not require legislative review, nor is a preliminary assessment report or a fiscal impact statement required.

A Notice of Drafting for the proposed amendments was published in the State Register on March 24, 2006, and no comments were received. See Discussion of Proposed Revision below and Statement of Need and Reasonableness herein.

Discussion of Proposed Revision:

SECTION	CHANGE
61-83 1.2	Remove reference to 49 CFR Parts 171-179, 49 CFR Parts 386-399 and replace with reference to the Nuclear Regulatory Commission Title 10 CFR Part 71 as revised January 26, 2004

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invite interested members of the public and regulated community to attend a staff-conducted informational forum to be held on Monday, July 31, 2006, at 10:30 a.m. in Room 1710 of the Stern Building at 8911 Farrow Road, Suite 106. The purpose of the forum is to answer questions and to receive public comments from interested persons on the proposed amendment of R.61-83. Comments received at the informational forum shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing noticed below.

Notice of Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Sections 1-23-110 and 1-23-111:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed amendment at a public hearing to be conducted by the Board of Health and Environmental control at

its regularly scheduled meeting on September 14, 2006. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The Board's agenda will be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Henry Porter, Assistant Director of the Division of Waste Management, at 2600 Bull Street, Columbia, SC 29201. Written comments must be received no later than July 31, 2006, the close of the public comment period. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for public hearing on September 14, 2006, as noticed above. Comments received by the deadline date shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

Information or copies of the proposed text for public notice and comment may be obtained at http://www.scdhec.gov/lwm/html/public.html or by calling Michael Moore at (803)896-4181.

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness complies with SC Code Ann. Section 1-23-115(c)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: Proposed amendment of R.61-83, Transportation of Radioactive Waste Into or Within South Carolina.

Purpose: The federal equivalent to R.61-83 is amended periodically. The State is required to adopt certain federal amendments within three years of the effective date of changes in NRC regulations to maintain authorization by the United States Nuclear Regulatory Commission for the State Radioactive Waste Management Program.

The Department intends to amend R.61-83 to maintain conformity with the federal requirements for Transportation Safety Standards as found in 10 CFR 71 and published in the Federal Register at 69 FR 3698 on January 26, 2004. Corrections to the Final Rule were published in the Federal Register on February 10, 2004 at 69 FR 6139 and September 29, 2004 at 69 FR 58038. The Final Rule and corrections are reflected in 10 CFR Part 71 as revised January 1, 2006. Adoption of these regulations will ensure compliance with federal standards as required by Section 274 of the Atomic Energy Act of 1954. This amendment will incorporate the transportation regulations by reference at section 61-83.1.2.

Legal Authority: S.C. Code Ann Section 13-7-10 *et seq*.; 13-7-40; Title 10 Part 71 of the Code of Federal Regulations as revised January 1, 2006.

Plan for Implementation: Upon final approval by the Board of Health and Environmental Control and publication in the State Register as a final regulation, amended regulations will be provided to the regulated community at cost through the Department's Freedom of Information Office.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: Adoption of the proposed amendments of R.61-83 will enable compliance with recent federal amendments. See purpose above.

DETERMINATION OF COSTS AND BENEFITS This regulatory amendment is exempt from the requirements of a Preliminary Fiscal Impact Statement or a Preliminary Assessment Report because the

proposed changes are necessary to maintain compliance with federal regulations. There are no known costs that would be incurred to the state or its political subdivisions. See Federal Registers for information.

UNCERTAINTIES OF ESTIMATES: No known uncertainties.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH: The adoption of this regulation will ensure an effective regulatory program for radioactive material users under state jurisdiction and protection of the public and workers from unnecessary exposure to ionizing radiation. These changes will provide the updates to the transportation safety standards for radioactive materials.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: The State's authority to implement federal requirements, which are believed to be beneficial to the public health and environment, would be compromised if these amendments were not adopted in South Carolina.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: **http://www.scstatehouse.net/regnsrch.htm.** Full text may also be obtained from the promulgating agency.

Document No. 3045
OFFICE OF THE ATTORNEY GENERAL
CHAPTER 13
Statutory Authority: 1976 S.C. Code Sections 35-1-101 et seq. (Supp. 2005)

ARTICLE 2. Securities Division.

Synopsis:

The regulations are issued under authority granted to the Securities Commissioner by the South Carolina Uniform Securities Act of 2005, which became effective January 1, 2006. The regulations set forth requirements for the transaction of securities business in South Carolina and provide guidance for those in the securities industry with respect to compliance with the South Carolina Uniform Securities Act of 2005.

Instructions:

Add new Article 2, Securities Division, to Chapter 13 Regulations. Recodify existing regulations in Chapter 13 Regulations as Article 1.

Text of Regulations:

Securities Regulations — Beginning Regulation

1. General Provisions (Reserved)………………………………………………………… 13.101
2. Exemptions from Securities Registration Requirements …………………………………..13.201
3. Registration of Securities and Notice Filing of Federal Covered Securities ………………13.301
4. Broker-Dealers, Agents, Investment Advisers, Investment Adviser Representatives, and Federal Covered Investment Advisers …………………………………………………….13.401
5. Fraud and Liabilities …………………………………………………………………13.501
6. Administration and Judicial Review ……………………………………………………13.601
7. Transition and Fee Provisions (Reserved) ………………………………………………13.701

SUBARTICLE 1

GENERAL PROVISIONS (RESERVED)

SUBARTICLE 2

EXEMPTIONS FROM SECURITIES

REG.
13-201. Approved Securities Exchanges.
13-202. Securities of Nonprofit Organizations.
13-203. Recognized Securities Manuals.
13-204. Regulation D Offerings.
13-205. Accredited Investor Exemption.

13-201. Approved Securities Exchanges

The following securities markets are recognized under the provisions of Section 35-1-201(6) of the South Carolina Uniform Securities Act of 2005: the New York Stock Exchange (NYSE); American Stock Exchange (ASE); Midwest Stock Exchange; NASDAQ/National Market System; Philadelphia Stock Exchange; Pacific Stock Exchange; Chicago Board Options Exchange (CBOE).

13-202. Securities of Nonprofit Organizations

The exemption from the registration requirements of Section 35-1-301 provided by Section 35-1-201(7) for nonprofit organizations shall not be considered to be available for debt securities issued and offered by such organizations unless the full disclosure provisions of Section 35-1-501(2) are met and the investing public is afforded the protection provided by the following as a minimum:

(1) The organization shall be incorporated as a nonprofit, nonstock corporation.

(2) Any organization assisting the issuer in any manner in the sale of the securities shall be required to be registered as a broker-dealer in this State.

(3) The trustee and/or paying agent shall be independent of the issuer, the broker-dealer or any affiliate of either, and shall possess the authority to administer a trust under state and/or federal laws.

(4) The debt securities shall meet all form and minimum provisions for debt securities established pursuant to rule or order of the Securities Commissioner.

(5) A Prospectus, Offering Brochure, Offering Circular or similar instrument, dated and filed with the Securities Commissioner, shall be delivered to each prospective purchaser and a copy of such instrument (signed by two officers of the issuer) shall be held in the files of the trustee and/or paying agent.

(6) Said Prospectus or similar instrument shall at a minimum contain the following information:

(a) Financial statement consisting of a statement of assets and liabilities, income and expense statement, and comparative figures showing the budget, number of pledging units, if available, and income and expenses for the past three years. If any of this information is not available, a statement to that effect should be made with an explanation of why it is not available. Obligations, if any, on existing indebtedness should be clearly stated;

(b) A pay-back or maturity schedule and sinking fund requirements, if any. If refinancing will be needed when the bonds mature, this should be clearly stated;

(c) The name, address and telephone number of the trustee and/or paying agent;

(d) Any past history of financial transactions between the issuer and broker-dealer or financing organization and any known or contemplated future transactions;

(e) The name, address and telephone number of the broker-dealer handling the issue and the name and address of the local representative of the broker-dealer;

(f) The total expenses of the issue (including remuneration to the broker-dealer);

(g) A statement on whether the offering is being made on a best efforts or firm underwriting basis, and if the former, a clear statement of the responsibilities of the financing organization and the church membership;

(h) An itemized statement of the use to which the proceeds will be put. If additional funds will be needed to complete the stated purposes, this should be disclosed together with a statement showing how such funds will be obtained;

(i) If any statements are made concerning the risk or lack of risk in purchasing the securities, they should be made in the light of the financial condition of the issuer, and not in generalities. Likewise, any comparison of yields will be considered misleading unless other comparative aspects of these investments are included;

(j) A description of the terms of the debt security offered. For details reference may be made to an indenture and/or deed of trust if such exists;

(k) If guarantee of payment is made by an affiliated organization, information describing the ability of that organization to guarantee should be furnished, including financials. The word "guarantee" should be used only if there is a second obligation by another entity;

(l) Brief information concerning the city, town or other area in which the issuer is located with special reference to the immediate neighborhood;

(m) Clear disclosure of any affiliation of the issuer or broker-dealer, or of any officers of either, with any building contractor or supplier who has an interest in or may receive any of the proceeds of the issue; and

(n) If the securities have not been registered under the South Carolina Uniform Securities Act of 2005, the Securities Act of 1933 or the securities law of the state in which the issuer is located, this should be clearly indicated, and the exemptions relied upon cited.

(7) Before reliance is placed upon the exemption provided by Section 35-1-201(7), written clearance by the Securities Commissioner must be obtained. A request for such should be accompanied by the following:

(a) A copy of the latest preliminary or definitive Prospectus, Offering Brochure or other offering document. If preliminary, a copy of the definitive instrument should be filed when available;

(b) A draft or specimen of the security;

(c) A copy of the preliminary or definitive indenture and/or trust agreement, if any;

(d) A copy of the Agreement between the issuer and broker-dealer;

(e) An Opinion of Counsel as to the legality of the issue and obligation of the issuer;

(f) Copies of all advertising materials and related literature to be used in the offer or sale of the security; and

(g) A filing fee in the amount of one hundred fifty ($150.00) dollars.

13-203. Recognized Securities Manuals.

The following securities manuals are recognized under the provisions of Section 35-1-202(2)(D) of the South Carolina Uniform Securities Act of 2005 and the inclusion in any one of these manuals of the information specified in this Section concerning the issuer of the security, exempts such security from the requirements of Sections 35-1-301 through 35-1-306 and 35-1-504 of the South Carolina Uniform Securities Act of 2005: Standard & Poor’s Corporation Records; Mergent’s Manuals.

13-204. Regulation D Offerings.

Any offer or sale of securities made in compliance with Rules 501 through 505 and 507 through 508 of Regulation D (collectively "SEC Regulation D") under the Securities Act of 1933, as amended from time to time (except for any subsequent amendment to SEC Regulation D which the Securities Commissioner, by Rule or Order, specifically excludes) and which satisfies the following additional conditions and limitations, shall be exempt from Sections 35-1-301 to 35-1-306 of the South Carolina Uniform Securities Act of 2005:

A. Commissions. No commissions, finders fees or other remuneration shall be paid or given, directly or indirectly, to any person for soliciting any prospective purchaser unless such person is registered as a broker-dealer or agent as required by Section 35-1-401 of the South Carolina Uniform Securities Act of 2005.

B. Disqualifications. No exemption under this Rule shall be available for the securities of an issuer, if the issuer or any of its affiliates:

(1) is subject to any order, judgment, or decree of any court of competent jurisdiction temporarily or preliminary restraining or enjoining or is subject to an order, judgment or decree of any court of competent jurisdiction, entered within five (5) years prior to commencement of the offering in reliance upon this exemption, permanently restraining or enjoining such person from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with any state; or

(2) has been convicted within five (5) years prior to the commencement of the offering in reliance upon this exemption of any felony or misdemeanor in connection with the purchase or sale of any security or any felony involving fraud or deceit including but not limited to forgery, embezzlement, obtaining money under false pretenses, theft by conversion, theft by deception, larceny or conspiracy to defraud; or

(3) is subject to any order, judgment or decree issued by any State Securities Administrator, the United States Securities and Exchange Commission, the United States Commodities Future Trading Commission or the United States Postal Service in which fraud, deceit or registration violations were found after notice and opportunity for hearing, if the order was entered within five (5) years prior to the commencement of the offering in reliance upon this exemption; or

(4) is subject to an order barring or suspending membership in any self-regulatory organization registered pursuant to the Securities Exchange Act of 1934, if the order was entered within five (5) years prior to the commencement of the offering in reliance upon this exemption.

C. Waiver of Disqualification. The disqualification referred to in Subsection B above shall not apply:

(1) if the issuer or its affiliate subject to the disqualification is currently registered or licensed to conduct securities-related business in the jurisdiction where the administrative order or judgment was entered against such issuer or affiliate; or

(2) if the jurisdiction which created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances that the exemption be denied; or

(3) if the Securities Commissioner, in his discretion, waives the disqualification.

D. Filing requirements. The following filing requirements are conditions precedent to the availability of this exemption:

(1) The issuer shall file with the Securities Commissioner a notice of intention to sell using the SEC Form D, described in Rule 503 of SEC Regulation D, or any successor form, at least five (5) business days prior to the first offering to an investor in this state in reliance upon this exemption. Said notice of intention to sell shall be accompanied by the following:

(a) a non-refundable filing fee in the amount of three hundred ($300.00) dollars;

(b) a consent to service of process prescribed by Section 35-1-611(a) of the South Carolina Uniform Securities Act of 2005, on Form U-2, which has been executed by the issuer; and

(c) a copy of any prospectus or disclosure documents to be used in connection with the offer and sale of the securities.

(2) A sales report shall be filed with the Securities Commissioner no later than thirty (30) days after the termination of the offering and shall include the names and addresses of the purchasers.

(3) In the event that an offering pursuant to this exemption continues for a period of more than twelve (12) months after the time required for the filing of the initial SEC Form D in this state, prior to the expiration of twelve (12) months from such time, the issuer shall file with the Securities Commissioner a notice stating that such offering is to be renewed for an additional period of up to twelve (12) months, together with a non-refundable renewal filing fee in the amount of three hundred ($300.00) dollars and any necessary amendments or updates to documents previously filed with the Securities Commissioner.

(4) Any filing pursuant to this exemption shall be amended by filing with the Securities Commissioner such information and changes as may be necessary to correct any material misstatement or omission in the filing. Any prospectus or disclosure documents required to be filed by this Rule that were not prepared at the time of the initial filing, or which materially differ from the prospectus or disclosure documents included in any filing shall be filed with the Securities Commissioner at least two (2) business days prior to its use in this state. There shall be no fees charged for amendment of filings pursuant to this Rule.

(5) Any notice on, amendment to or renewal of an SEC Form D required by this section shall be manually signed by a person authorized by the issuer.

(6) For purposes of this exemption, a document shall be deemed to have been filed with the Securities Commissioner only when the document has been delivered to the Office of the Securities Commissioner.

E. Any prospectus or disclosure document utilized in this State in connection with offers or sales of securities in reliance on this exemption must carry substantially the following information shown boldly:

THESE SECURITIES ARE OFFERED PURSUANT TO A CLAIM OF EXEMPTION UNDER ONE OR MORE SECURITIES ACTS. IN MAKING AN INVESTMENT DECISION INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE PERSON OR ENTITY CREATING THE SECURITIES AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSIONER OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

F. The Securities Commissioner in his discretion shall be entitled to postpone the effective date of any filing pursuant to this exemption pending receipt of registered or required documents or pending further review or to deny the availability of this exemption by faxing, mailing, or otherwise notifying the issuer prior to the end of the fifth business day after filing of the SEC Form D referred to in Subsection D(1) above.

G. An issuer shall be deemed to have complied with Regulation D as used above if the issuer demonstrates to the Securities Commissioner that it has made a good faith effort to comply in all material respects with Regulation D, and the issuer otherwise qualifies for an exemption from registration under the Securities Act of 1933.

H. This exemption shall not apply to transactions offered and sold in reliance upon Rule 504 of SEC Regulation D, unless the following additional conditions are satisfied:

(1) The aggregate offering price for securities sold in South Carolina shall not exceed two hundred fifty thousand ($250,000.00) dollars during any twelve (12) month period;

(2) The limitation on the manner of offering and resale of securities set forth in Rules 502(c) and (d) of SEC Regulation D shall be satisfied; and

(3) The "sophisticated investor" qualifications for the nature of purchasers set forth in Rule 506(b)(2)(ii) of SEC Regulation D shall be satisfied.

I. Nothing in this exemption is intended to relieve or should be construed as in any way relieving issuers or persons acting on behalf of issuers from the anti-fraud provisions of the South Carolina Uniform Securities Act of 2005.

J. The Securities Commissioner may deny, revoke or suspend the availability of this exemption pending a further investigation and determination as to whether the issuer and all other parties acting on behalf of the issuer have effected full compliance with the terms and conditions hereof, and of the South Carolina Uniform Securities Act of 2005. Neither compliance nor attempted compliance with this exemption, nor the absence of any objection or order from the Securities Commissioner with respect to any offering of securities undertaken pursuant to this exemption, shall be deemed an approval of any securities offered pursuant to this exemption.

K. The aggregate number of unaccredited investors sold under this exemption shall not exceed thirty-five (35) purchasers in this state during any twelve (12) month period, exclusive of purchasers acquiring securities registered pursuant to Section 35-1-304 of the South Carolina Uniform Securities Act of 2005.

L. All terms used in this exemption, to the extent not otherwise defined, shall have the meanings ascribed to them in SEC Regulation D.

13-205. Accredited Investor Exemption.

Any offer or sale of a security by an issuer in a transaction that meets the requirements of this Rule is exempted from Sections 35-1-301 and 35-1-504.

A. Sales of securities shall be made only to accredited investors. "Accredited investor" is defined in 17 C.F.R. 230.501(a), as amended.

B. The exemption is not available to an issuer that is in the development stage that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.

C. The issuer must reasonably believe that all purchasers are purchasing for investment and not with the view to or for sale in connection with a distribution of the security. Securities issued under this exemption may only be resold pursuant to a registration or an exemption under the South Carolina Uniform Securities Act of 2005 or other appropriate state or federal securities acts.

D. (1) A general announcement of the proposed offering may be made by any means.

(2) The general announcement must include the following:

(a) The name and address of the issuer of the securities;

(b) The name, a brief description and price (if known) of any security to be issued;

(c) A brief description of the business of the issuer;

(d) The name, address and telephone number of the person to contact for additional information; and

(e) A statement that:

(i) sales will only be made to accredited investors;

(ii) no money or other consideration is being solicited or will be accepted; and

(iii) the securities have not been registered with or approved by any state securities agency or the United States Securities and Exchange Commission and are being offered and sold pursuant to an exemption from registration.

(3) The general announcement may include additional information permitted by the Securities Commissioner.

(4) The general announcement of the proposed offering shall only contain the information that is required or permitted in Subsections D(2) and (3) of this Rule.

(5) Dissemination of the general announcement of the proposed offering to persons who are not accredited investors shall not disqualify the issuer from claiming the exemption under this Rule.

E. The issuer, in connection with an offer, may provide information in addition to the general announcement under Section D above, once the issuer has determined that the prospective purchaser is an accredited investor.

F. No telephone solicitation shall be permitted until the issuer has determined that the prospective purchaser to be solicited is an accredited investor.

G. The issuer shall file with the Securities Commission a notice of the transaction, a copy of the general announcement, and a fee of three hundred ($300.00) dollars within fifteen (15) days after the first sale in this state.

SUBARTICLE 3

REGISTRATION OF SECURITIES AND NOTICE FILING OF FEDERAL COVERED SECURITIES

REG.

13-301. Notice Filing Requirements for Federal Covered Securities.
13-302. Prospectus Content and Filing Requirements for Securities Registered by Qualification.
13-303. Impoundment of Proceeds or Stock.
13-304. Underwriting Expenses, Underwriter Warrants, Selling Expenses and Selling Security Holders.
13-305. Options and Warrants.
13-306. Form and Minimum Provisions for Debt Securities.
13-307. Promoters' Equity.
13-308. Required Filings for Federal Covered Securities under Section 18(b)(4)(D) of the Securities Act of 1933

13-301. Notice Filing Requirements for Federal Covered Securities.

The filings listed in Section 35-1-302(a)(1) and (2) and 35-1-302(c) shall be made and fees paid in accordance with Section 35-1-702(a).

13-302. Prospectus Content and Filing Requirements for Securities Registered by Qualification.

As a condition of registration, a prospectus containing the information listed in Sections 35-1-304(b)(1) through (18) shall be sent or given to each person to whom an offer is made, before or concurrently with the earliest of the conditions listed in Section 35-1-304 (e)(1) through (4).

13-303. Impoundment of Proceeds or Stock.

A. The Securities Commissioner may require as a condition of registration that a security issued within the previous five (5) years or to be issued to a promoter for a consideration substantially less than the public offering price or to a person for a consideration other than cash be deposited in escrow; and that the proceeds from the sale of the registered security in this State be impounded until the issuer receives a specified amount from the sale of the security either in this State or elsewhere.

B. Impoundment of Proceeds

(1) When proceeds from the sale of securities are required to be impounded pursuant to Section A of this Rule, the proceeds must be deposited in an interest bearing escrow or trust account with an impoundment agent. The impoundment agent may not be affiliated with the issuer, its affiliates, its officers or directors, the underwriter or any promoter and a valid impoundment agreement is required.

(2) For an impoundment agreement to be considered valid, the following terms and conditions must be met:

(a) A signed copy of the agreement must be filed with the Securities Commissioner;

(b) The agreement must be signed by an officer of the issuer, an officer of the underwriter (if applicable), and an officer of the impoundment agent. The aforesaid individuals must have the authority to sign such documents;

(c) The agreement shall provide that the impounded proceeds are not subject to claims by creditors, affiliates, associates, or underwriters of the issuer until the proceeds have been released to the issuer pursuant to the terms of the agreement;

(d) A summary of the principal terms of the agreement must be included in the registration statement; and

(e) The agreement must provide that the Securities Commissioner has the right to inspect and make or require to be made copies of the records of the impoundment agent at any reasonable time wherever the records are located.

(3) The impoundment agent shall notify the Securities Commissioner in writing upon the release of the proceeds. If the proceeds are insufficient to meet the minimum requirements as established by the Securities Commissioner in his sole discretion within the time prescribed by the agreement the impoundment agent must release and return the proceeds directly to the investors with or without interest, depending upon the terms and conditions of the agreement, and without deduction for expenses, including impoundment agent fees. All interest earned shall be distributed pro-rata to the investors, along with the proceeds.

(4) If a person, who is an underwriter or an officer, director, promoter, affiliate or associate of the issuer, purchases securities that are a part of the public offering being sold pursuant to the registration statement and if the proceeds from that purchase are used for the purpose of completing the impoundment requirements imposed by this Rule, the following conditions must be met:

(a) The persons must be purchasing the securities with investment intent rather than with intent of resale and on the same terms as unaffiliated public investors;

(b) The prospectus must contain a disclosure that such persons may purchase securities of the issuer for purposes of completing the impoundment requirements imposed by this Rule; and

(c) All securities so purchased will neither be defined as promotional shares, nor be subject to escrow under Section C of this Rule.

C. Escrow of Security

(1) When a security is required to be escrowed pursuant to Section A of this Rule, the security shall be escrowed with an escrow agent who is not affiliated with the issuer, its affiliates, officers or directors, the underwriter or any promoter and a valid escrow agreement is required.

(2) In order for an escrow agreement to be considered valid pursuant to this Rule, a signed copy of the agreement must be filed with and accepted by the Securities Commissioner who, in his discretion, may require additional terms and condition prior to acceptance.

13-304: Underwriting Expenses, Underwriter Warrants, Selling Expenses, and Selling Security Holders.

A. An offer or sale of securities may be disallowed by the Securities Commissioner if the underwriting expenses to be incurred exceed seventeen (17%) percent of the gross proceeds from the public offering.

B. Underwriting expenses may include but are not limited to:

(1) Commissions to underwriters or broker-dealers;

(2) Non-accountable fees or expenses to be paid to the underwriter or broker-dealer;

(3) Underwriter warrants, which shall be valued using the following formula:

$$\frac{165\%\text{ of the offering price} - \text{the exercise price}}{2} \times \frac{\text{the number of shares underlying the warrants}}{\text{the number of shares offered}} = \text{value}$$

The value may be reduced by twenty percent (20%) if the exercise period of the warrants is extended from one (1) year after the public offering to two (2) years after the public offering and by forty percent (40%) if the exercise period of the warrants is extended from one (1) year after the public offering to three (3) years after the public offering. Warrants may be granted to underwriters only under the following conditions and subject to the following restrictions:

(a) The underwriter is a managing underwriter;

(b) The public offering is either a firmly underwritten offering or a "minimum-maximum" offering. Options or warrants may be issued in a "minimum-maximum" public offering only if:

(i) The options or warrants are issued on a pro rata basis; and

(ii) The "minimum" amount of securities has been sold;

(c) The exercise price of the warrants must be at least equal to the public offering price;

(d) The number of shares covered by underwriter options or warrants may not exceed ten percent (10%) of the shares of common stock actually sold in the public offering;

(e) The life of the options or warrants may not exceed a period of five (5) years from the completion date of the public offering;

(f) The options or warrants are not exercisable for the first year after the completion date of the public offering;

(g) Options or warrants may not be transferred, except:

(i) To partners of the underwriter, if the underwriter is a partnership;

(ii) To officers and employees of the underwriter, who are also shareholders of the underwriter, if the underwriter is a corporation;

(iii) By will, pursuant to the laws of descent and distribution; or

(iv) By the operation of law.

(h) The warrant agreement may not allow for a reduction in the exercise price of the options or warrants resulting from the subsequent issuance of shares by the issuer except where such issuances are pursuant to a:

(i) Stock dividend or stock split; or

(ii) merger, consolidation, reclassification, reorganization, recapitalization, or sale of assets.

(4) Rights of first refusal, which shall be valued at one percent (1%) of the public offering or the amount payable to the underwriter if the issuer terminates the right of first refusal;

(5) Solicitation fees payable to the underwriter, which shall be valued at the lesser of actual cost or one percent (1%) of the public offering if the fees are payable within one (1) year of the offering;

(6) Financial consulting or financial advisory agreements with an underwriter or any other similar type of agreement or fees, however designated, which shall be valued at actual cost;

(7) Underwriter due diligence expenses;

(8) Payments made either six (6) months prior to or required to be made six (6) months following the public offering to investor relations firms designated by the underwriter; and

(9) Other underwriting expenses incurred in connection with the public offering of securities as determined by the Securities Commissioner.

C. Underwriting expenses shall not include financial consulting or financial advisory agreements with the underwriter payable at the time the services are rendered provided that such agreement was entered into at least twelve (12) months prior to the registration being filed with the Securities and Exchange Commission.

D. An offer or sale of securities may be disallowed by the Securities Commissioner if the direct and indirect selling expenses of the offering exceed twenty percent (20%) of the gross proceeds from the public offering.

E. Selling expenses may include but are not limited to:

(1) Commissions to underwriters or broker-dealers;

(2) Non-accountable fees or expenses to be paid to the underwriters or broker-dealers;

(3) Auditor's and accountant's fees;

(4) Legal fees;

(5) The cost of printing prospectuses, circulars and other documents required to comply with securities laws and regulations;

(6) Charges of transfer agents, registrars, indenture trustees, escrow holders, depositories, engineers, appraisers, and other experts;

(7) The cost of authorizing and preparing the securities, including issue taxes and stamps;

(8) Financial consulting or financial advisory agreements with an underwriter or any similar type agreement or fees, however designated, which shall be valued at actual cost, excluding financial and consulting agreements which are entered into at least twelve (12) months before the registration is filed with the Securities and Exchange Commission;

(9) Payments made either six (6) months prior to or required to be made six (6) months following the public offering to investor relations firms designated by the underwriter; and

(10) Other cash expenses incurred in connection with the public offering of securities as determined by the Securities Commissioner.

F. A public offering or sale of securities that includes selling security holders offering more than ten percent (10%) of the securities to be sold in the public offering may be disallowed by the Securities Commissioner unless:

(1) Selling security holders offering or selling more than ten percent (10%) but less than fifty percent (50%) of the securities to be sold in the public offering pay a pro-rata share of all selling expenses of the public offering, excluding the legal and accounting expenses of the public offering;

(2) Selling security holders offering more than fifty percent (50%) of the securities to be sold in the offering pay a pro-rata share of all selling expenses of the public offering; and

(3) The prospectus or offering document discloses the amount of selling expenses which the selling security holders will pay.

G. With the exception of underwriter or broker-dealer compensation, Subsections F (1), (2), and (3) above shall not apply if the selling security holders have a written agreement with the issuer, that was entered into in an arm's length transaction, whereby the issuer has agreed to pay all of the selling security holder's selling expenses.

13-305. Options and Warrants.

A. Options or warrants may be issued to underwriters as compensation in connection with a public offering provided those options or warrants comply with the requirements of Rule 13-304.

B. Options or warrants may be granted to unaffiliated institutional investors in connection with loans if:

(1) The options or warrants are issued contemporaneously with the issuance of the loan;

(2) The options or warrants are granted as the result of bona fide negotiations between the issuer and the unaffiliated institutional investor;

(3) The exercise price of the options or warrants is not less than the fair market value of the issuer's shares of common stock underlying the options or warrants on the date that the loan was approved; and

(4) The number of shares issuable upon exercise of the options or warrants multiplied by the exercise price thereof does not exceed the face amount of the loan.

C. Options or warrants may be granted in connection with acquisitions, reorganizations, consolidations or mergers if:

(1) They are granted to persons who are unaffiliated with the issuer; and

(2) The earnings of the issuer at the time of grant and after giving effect to the acquisition, reorganization, consolidation or merger would not be materially diluted by the exercise of the options or warrants.

D. Options and warrants may not be granted at an exercise price of less than eighty-five percent (85%) of fair market value of the issuer's underlying shares of common stock on the date of the grant. The issuer, and its officers and directors, should consider the advisability of obtaining a concurrent appraisal, by a qualified independent appraiser, of the value of the shares of common stock at the time of the grant as evidence of the fair market value.

E. The total number of options and warrants issued or reserved for issuance on the date of the public offering, may not, for one (1) year following the effective date of the offering, exceed fifteen percent (15%) of the issuer's shares of common stock outstanding at the date of the public offering plus the number of shares of common stock being offered that are firmly underwritten, or in the case of offerings not firmly underwritten, the

number of shares of common stock required to be sold in order to meet the minimum offering amount. In calculating the number of options and warrants, the following are excluded:

(1) Options and warrants that were issued, or reserved for issuance, pursuant to Sections B and C, above;

(2) Options and warrants that were issued, or reserved for issuance, to employees or consultants who are not promoters, in connection with an incentive stock option plan qualified under section 422 of the Internal Revenue Code; and

(3) Options and warrants that are exercisable at or above the public offering price.

F. No options or warrants issued and outstanding at the date of the public offering, excluding those options and warrants issued pursuant to an incentive stock option plan qualified under section 422 of the Internal Revenue Code, may be exercisable more than five (5) years from the date of the public offering.

G. If the number of options and warrants that are issued and outstanding and/or reserved for issuance is material, the final offering circular shall disclose the potential dilutive effects of such options and warrants.

13-306: Form and Minimum Provisions for Debt Securities.

A. Provisions or terms of an issue of debt securities shall be considered inadequate for the protection of the security holders, and shall be considered grounds for denial of an application for registration under Section 35-1-306(a)(7) which do not as a minimum adequately define the following, either in the security itself or in a trust indenture:

(1) Maturity date which is the date upon which the principal shall become due and payable. Demand securities, with no maturity date, will not be accepted.

(2) Interest rate and interest payment dates.

(3) Assets securing the issue and the liens thereon, or if none, a statement to that effect.

(4) Conversion feature, if any, including protection of such feature from dilution.

(5) Position of the issue in the debt structure of the company, both present and future.

(6) Events of default, including provision that default in payment either of principal or interest on any one security of an issue shall constitute a default on the entire issue.

(7) Rights of the security holders in default, including the right to a list of names and addresses of all holders of an issue of registered securities in default, if there is no trustee to act for all holders, and the right of the holders of twenty-five percent (25%) in principal amount of the issue outstanding to declare the entire issue due and payable.

(8) Duties of the trustee, if any.

(9) Call features, if any.

(10) Denominations in which issued.

B. The security should be in such form, and bear such descriptive nomenclature, as is customary and recognized in the field of securities.

13-307. Promoters' Equity.

A public securities offering by a promotional or development stage company may be disallowed by the Securities Commissioner if the promoter's equity investment is less than:

A. Ten percent (10%) of the first one million ($1,000,000.00) dollars of the aggregate public offering; and

B. Seven percent (7%) of the next five hundred thousand ($500,000.00) dollars of the aggregate public offering; and

C. Five percent (5%) of the next five hundred thousand ($500,000.00) dollars of the aggregate public offering; and

D. Two and one-half percent (2½%) of the balance over two million ($2,000,000.00) dollars, which may include items submitted by the promoter to meet this requirement whose value has been accepted by the Securities Commissioner or his designee.

13-308. Required filings for federal covered securities under Section 18(b)(4)(D) of the Securities Act of 1933.

A. With respect to a security that is a federal covered security under Section 18(b)(4)(D) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(4)(D)), a notice filing, including a copy of Form D including the appendix, a consent to service of process complying with Section 35-1-611 of the South Carolina Uniform Securities Act of 2005, and a fee in the amount of three hundred ($300.00) dollars must be filed with the Securities Commissioner not later than fifteen (15) days after the first sale of the security in this State.

B. The notice filing under Section A of this Rule is effective for one (1) year from the date of its filing with the Securities Commissioner after which time, if the offering is to continue, a renewal notice must be filed. The renewal notice filing shall include the same items as are required for an initial notice filing, including payment of the filing fee in the amount of three hundred ($300.00) dollars.

SUBARTICLE 4

BROKER-DEALERS, AGENTS, INVESTMENT ADVISERS, INVESTMENT ADVISER REPRESENTATIVES, AND FEDERAL COVERED INVESTMENT ADVISERS

REG.
13-401. Examinations for Securities Agents, Investment Advisers, and Investment Adviser Representatives.
13-402. Exemption for Certain Canadian Broker-Dealers.
13-403. Use of the NASD CRD and IARD to Receive Certain Broker-Dealer, Agent, Investment Adviser, and Investment Adviser Representative Registrations, Terminations, and other Forms and Fees.
13-404. Criminal Record Requirement for Broker-Dealer Agents and Investment Adviser Representatives.
13-405. Broker-Dealer Recordkeeping, Minimum Financial Reporting and Bonding Requirements.
13-406. Investment Adviser Minimum Capital and Bonding Requirements.
13-407. Cash or Security Deposits in Lieu of Surety Bond.
13-408. Recordkeeping Requirements for Investment Advisers.

13-401. Examinations for Securities Agents, Investment Advisers, and Investment Adviser Representatives.

A. Examinations for securities agents. A passing grade on an examination appropriate based upon the type of securities being sold, and the Uniform Securities Agent State Law Examination (Series 63) or the Uniform Combined State Law Exam (Series 66) or such other examination as may be designated by the Securities Commissioner by rule or order, must be furnished, as proof, in any application for registration as a principal of a broker-dealer or registration as an agent. No person who has passed the designated examinations shall again be required to pass another examination unless for a period of twenty-four (24) or more consecutive months he shall not have been registered as an agent or as a principal, officer or director of a broker-dealer. An upgrading in the type of business being conducted by the agent or broker-dealer may require the passing of a new examination.

B. Examinations for investment advisers. As a condition of initial or renewal registration, every applicant for registration as an investment adviser, an investment adviser representative, or as a broker-dealer acting or proposing to act as an investment adviser, shall furnish the Securities Commissioner proof that he or she has obtained a passing score on the following examinations:

(1) The Uniform Investment Adviser Law Examination (Series 65);

(2) The General Securities Representative Examination (Series 7) and the Uniform Combined State Law Examination (Series 66); or

(3) Such other examination as may be designated by the Securities Commissioner by rule or order.

C. Waivers. The examination requirements of Subsection B of this Rule are waived for an individual who currently holds one or more of the following professional designations:

(1) Certified Financial Planner (CFP) issued by the Certified Financial Planner Board of Standards, Inc.;

(2) Chartered Financial Consultant (ChFC) awarded by the American College, Bryn Mawr, Pennsylvania;

(3) Personal Financial Specialists (PFS) administered by the American Institute of Certified Public

Accountants;

(4) Chartered Financial Analyst (CFA) granted by the Association for Investment Management and Research;

(5) Chartered Investment Counselor (CIC) granted by the Investment Counsel Association of America; or

(6) Such other professional designation as the Securities Commissioner may by rule or order recognize.

13-402. Exemptions for Certain Canadian Broker-Dealers.

A. A broker-dealer that is registered in Canada and that does not have a place of business in this State shall be exempt from the registration requirements of Section 35-1-401 of the South Carolina Uniform Securities Act of 2005 so long is it complies with the following conditions:

(1) It only effects or attempts to effect transactions in securities with or for, or by:

(a) an individual from Canada who is temporarily present in this State and with whom the broker-dealer had a bona fide customer relationship before the individual entered the United States; or

(b) an individual from Canada who is present in this State and whose transactions are in a self-directed tax advantaged retirement plan of which the individual is the holder or contributor.

(c) With or for a person from Canada who is present in this state, whose transactions are in a self-directed tax advantaged retirement plan in Canada of which the person is the holder or contributor; and,

(2) Files a notice in the form of his current application required by the jurisdiction in which his head office is located and a consent to service of process;

(3) Is a member of a self-regulatory organization or stock exchange in Canada;

(4) Maintains his provincial or territorial registration and his membership in a self - regulatory organization or stock exchange in good standing;

(5) Discloses to his clients in this state that he is not subject to the full regulatory requirements of the South Carolina Uniform Securities Act of 2005; and,

(6) Is not in violation of Section 35-1-501 or other anti-fraud provisions of the South Carolina Uniform Securities Act of 2005 and the rules and regulations promulgated thereunder.

B. An offer or sale of a security effected by a person exempt from registration pursuant to Section A of this Rule shall be deemed to be an exempt transaction not requiring registration pursuant to the South Carolina Uniform Securities Act of 2005.

13-403. Use of the NASD CRD and IARD to Receive Certain Broker-Dealer, Agent, Investment Adviser, and Investment Adviser Representative Registrations, Terminations, and Other Forms and Fees.

A. Registration of NASD Member Firms and their agents. NASD member firms and their agents shall file all applications and amendments and pay all fees required for registration under the South Carolina Uniform Securities Act of 2005 with the Central Registration Depository (CRD) System.

B. Registration of Investment Advisers and Investment Adviser Representatives. Federal covered investment advisers and their investment adviser representatives required to file/register in this State must file their applications and amendments and pay all fees required for registration under the South Carolina Uniform Securities Act of 2005 with the Investment Adviser Registration Depository (IARD) System. Investment advisers and their investment adviser representatives may either file their applications and amendments and pay all fees required for registration under the South Carolina Uniform Securities Act of 2005 with the IARD System or directly with the Securities Commissioner.

C. Registration of non-NASD member broker-dealers and their agents. Non-NASD member firms who cannot file via the CRD System must register directly with the Securities Commissioner providing the information and using any form required for the filing of a uniform application and, upon request by the Securities Commissioner, by providing any other financial or information or record that the Securities Commissioner determines is appropriate.

13-404. Criminal Record Requirement for Broker-Dealer Agents and Investment Adviser Representatives.

Pursuant to Section 35-1-406 (a)(2), every person applying for registration as a broker-dealer agent or investment adviser representative in this State must submit to the Securities Commissioner a criminal record history obtained from the South Carolina Law Enforcement Division. This requirement is waived for NASD registered broker-dealer agents.

13-405. Broker-Dealer Recordkeeping, Minimum Financial Reporting and Bonding Requirements.

A. Broker-Dealer Recordkeeping Requirements.

(1) Unless otherwise provided by order of the United States Securities and Exchange Commission ("SEC"), each broker-dealer registered or required to be registered under the South Carolina Uniform Securities Act of 2005 shall make, maintain and preserve books and records in compliance with SEC Rules 17a-3 (17C.F.R. 240.17a-3 (1996)), 17a-4 (17 C.F.R. 240.17a-4 (1996)), 15c2-6 (17 C.F.R. 240.15c2-6 (1996)) and 15c2-11 (17 C.F.R. 240.15c2-11 (1996)).

(2) To the extent that the SEC promulgates changes to the above-referenced rules, broker-dealers in compliance with such rules as amended shall not be subject to enforcement action by the Securities Commissioner for violation of this rule to the extent that the violation results solely from the broker-dealer's compliance with the amended rule.

B. Broker-Dealer Minimum Financial and Financial Reporting Requirements.

(1) Each broker-dealer registered or required to be registered under the South Carolina Uniform Securities Act of 2005 shall comply with SEC Rules 15c3-1 (17 C.F.R. 240. 15c3-1 (1996)), 15c3-2 (17 C.F.R. 240.15c3-2(1996)), and 15c3-3(17C.F.R. 240.15c-3(1996)).

(2) Each broker-dealer registered or required to be registered under the South Carolina Uniform Securities Act of 2005 shall comply with SEC Rule 17a-11 (17C.F.R. 240.17a-11) and shall file with the Securities Commissioner upon request copies of notices and reports required under Rules 17a-5, 17a-10, and 17a-11.

(3) To the extent that the SEC promulgates changes to the above-referenced rules, broker-dealers in compliance with such rules as amended shall not be subject to enforcement action by the securities division for violation of this rule to the extent that the violation results solely from the broker-dealer's compliance with the amended rule.

C. Intrastate Broker-Dealer Bonding Requirements.

Every broker-dealer registered or required to be registered under the South Carolina Uniform Securities Act of 2005 whose business is exclusively intrastate, who does not make use of any facility of a national securities exchange and who is not registered under section 15 of the Securities Exchange Act of 1934, shall be bonded in an amount of not less than fifty thousand ($50,000.00) dollars by a bonding company qualified to do business in this State. The bond so posted must require the broker-dealer to comply with the provisions of the South Carolina Uniform Securities Act of 2005 and those orders and regulations as the Securities Commissioner may from time to time prescribe.

13-406. Investment Adviser Minimum Capital and Bonding Requirements.

A. Minimum financial requirements for investment advisers.

Unless an investment adviser posts a bond pursuant to 35-1-411(e) and Section B below an investment adviser registered or required to be registered pursuant to the South Carolina Uniform Securities Act of 2005 who has custody of client funds or securities shall maintain at all times a minimum net worth of fifty thousand ($50,000.00) dollars, and every investment adviser registered or required to be registered under the South Carolina Uniform Securities Act of 2005 who has discretionary authority over client funds or securities but does not have custody of client funds or securities, shall maintain at all times a minimum net worth of thirty five thousand ($35,000.00) dollars. Should net worth fall below those levels after an investment adviser is registered, notice must be given to the Securities Commissioner by the close of business the next day. Investment activities

also must cease until net worth is restored to the required levels. The term "net worth" is the excess of assets over liabilities as determined by generally accepted accounting principles.

B. Bonding requirements.

Every investment adviser having custody of or discretionary authority over client funds or securities and not meeting the minimum financial requirements required of such adviser pursuant to Section A above shall post cash or securities (in accordance with Rule 13-407 or such other rule or order promulgated by the Securities Commissioner) or a surety bond in the amount of fifty thousand ($50,000.00) dollars for investment advisers having custody and thirty five thousand ($35,000.00) dollars for investment advisers having discretionary authority but not custody of client funds or securities. Surety bonds required to be posted pursuant to this Rule must be posted by a bonding company qualified to do business in this State.

C. An investment adviser that has its principal place of business in a state other than this State shall be exempt from the requirements of Sections A and B above provided that the investment adviser is registered as an investment adviser in the state where it has its principal place of business and is in compliance with such state's requirements relating to net worth or bonding.

D. The Securities Commissioner may, by order, exempt certain registered investment advisers from the surety bond posting requirements.

13-407. Cash or Security Deposits in Lieu of Surety Bond.

A deposit of cash or securities in lieu of the surety bond required by Rule 13-406 shall be considered appropriate within the intent and meaning of such section and shall be accepted by the Securities Commissioner under the following terms and conditions:

(1) With respect to a deposit of securities, that the securities be general obligations of, and be guaranteed both as to principal and interest by, the United States, any state or any political subdivision of a state, provided that such obligation currently be rated A or better in a Standard & Poor's Corporation Record or a Mergent's Manual, and provided further that the securities on the day of deposit have a net realizable market value of at least one hundred twenty-five percent (125%) of the penal sum of the bond required of the depositor;

(2) With respect to a deposit of cash, that the amount of the cash be at least equal to the amount of the bond otherwise required of the depositor;

(3) That as a condition of any renewal of registration by means of an in lieu deposit, cash so deposited be at least equal to the amount of the bond otherwise required of the depositor upon the renewal date and, for securities, the net realizable market value of securities so deposited be at least one hundred twenty-five percent (125%) of such sum on the renewal date;

(4) That the cash or securities shall be deposited in a bank located in South Carolina and organized under the laws of the United States or of the State of South Carolina;

(5) That the cash or securities so deposited shall be under the control of the Securities Commissioner and shall be for the use and benefit of any person damaged by any violation of the provisions of the South Carolina Uniform Securities Act of 2005, or other state securities act as the Securities Commissioner may in his discretion allow, by the depositor or his agent; and

(6) That the cash or securities so deposited shall remain on deposit and under the control of the Securities Commissioner for a period of three (3) years following termination of registration of the depositor. Any cash or securities then remaining, including any accumulated interest, shall be released to the depositor upon written request to, and then order of, the Securities Commissioner.

13-408. Recordkeeping Requirements for Investment Advisers.

A. Every investment adviser registered or required to be registered under the South Carolina Uniform Securities Act of 2005 shall make and keep true, accurate and current the following books, ledgers and records:

(1) A journal or journals, including cash receipts and disbursement records, and any other records of original entry forming the basis of entries in any ledger;

(2) General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts;

(3) A memorandum of each order given by the investment adviser for the purchase or sale of any security, of any instruction received by the investment adviser from a client concerning the purchase, sale, receipt or delivery of a particular security, and of any modification or cancellation of any such order or instruction. The memoranda shall show the terms and conditions of the order, instruction, modification or cancellation; shall identify the person connected with the investment adviser who recommended the transaction to the client and the person who placed the order; and shall show the account for which entered, the date of entry, and the bank or broker-dealer by or through who executed where appropriate. Orders entered pursuant to the exercise of discretionary power shall be so designated;

(4) All check books, bank statements, canceled checks and cash reconciliations of the investment adviser;

(5) All bills or statements (or copies of), paid or unpaid, relating to the investment adviser's business as an investment adviser;

(6) All trial balances, financial statements and internal audit working papers relating to the investment adviser's business as an investment adviser;

(7) Originals of all written communications received and copies of all written communications sent by the investment adviser relevant to (a) any recommendation made or proposed to be made and any advice given or proposed to be given, (b) any receipt, disbursement or delivery of funds or securities, or (c) the placing or execution of any order to purchase or sell any security, provided, however, (i) that the investment adviser shall not be required to keep any unsolicited market letters or other similar communications of general public distribution not prepared by or for the investment adviser, and (ii) that if the investment adviser sends any notice, circular or other advertisement offering any report, analysis, publication or other investment advisory service to more than ten persons, the investment adviser shall not be required to keep a record of the names and addresses of the persons to whom it was sent; except that if the notice, circular or advertisement is distributed to persons named on any list, the investment adviser shall retain with the copy of the notice, circular or advertisement a memorandum describing the list and its source;

(8) A list or other record of all accounts which identifies the accounts in which the investment adviser is vested with any discretionary power with respect to the funds, securities or transactions of any client;

(9) A copy of all powers of attorney and other evidences of the granting of any discretionary authority by any client to the investment adviser;

(10) A copy in writing of each agreement entered into by the investment adviser with any client, and all other written agreements otherwise relating to the investment adviser's business as an investment adviser;

(11) A file containing a copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication, including those by electronic media, that the investment adviser circulates or distributes, directly or indirectly, to two or more persons (other than persons connected with the investment adviser), and if the notice, circular, advertisement, newspaper, newspaper article, investment letter, bulletin, or other communication recommends the purchase or sale of a specific security and does not state the reasons for the recommendation, a memorandum of the investment adviser indicating the reasons for the recommendation;

(12) Records of Beneficial ownership (investment adviser or investment adviser representative)

(a) A record of every transaction in a security in which the investment adviser or any advisory representative (as hereinafter defined) of the investment adviser has, or by reason of any transaction acquires, any direct or indirect beneficial ownership, except:

(i) transactions effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; and

(ii) transactions in securities which are direct obligations of the United States.

The record shall state the title and amount of the security involved; the date and nature of the transaction (i.e. purchase, sale or other acquisition of disposition); the price at which it was effected; and the name of the broker-dealer or bank with or through whom the transaction was effected. The record may also contain a statement declaring that the reporting or recording of any transaction shall not be construed as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than ten (10) days after the end of the calendar quarter in which the transaction was effected.

(b) For purposes of Subsection A (12) above, the following definitions will apply:

(i) "advisory representative" shall mean any partner, officer or director of the investment investment adviser; any employee who participates or participated in any way in the determination of which recommendations shall or should be made; any employee who, in connection with his duties, obtains any

information concerning which securities are being recommended prior to the effective dissemination of the recommendations; and any of the following persons who obtain information concerning securities recommendations being made by the investment adviser prior to the effective dissemination of the recommendations:

(A) any person in a control relationship to the investment adviser;

(B) any affiliated person of a controlling person; and

(C) any affiliated person of an affiliated person;

(ii) "control" shall mean the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company. Any person who owns beneficially, either directly or through one or more controlled companies, more than twenty-five percent (25%) of the voting securities of a company shall be presumed to control such company.

(c) An investment adviser shall not be deemed to have violated the provisions of Subsection A (12) above because of the failure to record securities transactions of any advisory representative if the investment adviser establishes that it instituted adequate procedures and used reasonable diligence to promptly obtain reports of all transactions required to be recorded;

(13) Records of Beneficial ownership (other)

(a) Notwithstanding the provisions of Subsection A (12) above, where the investment adviser is primarily engaged in a business or businesses other than advising investment advisory clients, a record must be maintained of every transaction in a security in which the investment adviser or any advisory representative (as hereinafter defined) of the investment adviser has, or by reason of any transaction acquires, any direct or indirect beneficial ownership, except:

(i) transactions effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; and

(ii) transactions in securities which are direct obligations of the United States.

The record shall state the title and amount of the security involved; the date and nature of the transaction (i.e. purchase, sale, or other acquisition or disposition); the price at which it was effected; and the name of the broker-dealer or bank with or through whom the transaction was effected. The record may also contain a statement declaring that the reporting or recording of any transaction shall not be construed as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected.

(b) An investment adviser is "primarily engaged in a business or businesses other than advising investment advisory clients" when, for each of its most recent three (3) fiscal years or for the period of time since organization, whichever is lesser, the investment adviser derived from such other business or businesses, on an unconsolidated basis, more than fifty percent (50%) of:

(i) its total sales and revenues; and

(ii) its income (or loss) before income taxes and extraordinary items.

(c) For purposes of Subsection A (13) above, the following definitions will apply:

(i) "advisory representative", when used in connection with a company primarily engaged in a business or businesses other than advising investment advisory clients, shall mean any partner, officer, director, or employee of the investment adviser who participates in any way in the determination of which recommendation shall be made, or whose functions or duties relate to the determination of which securities are being recommended prior to the effective dissemination of the recommendations; and any of the following persons, who obtain information concerning securities recommendations being made by the investment adviser prior to the effective dissemination of such recommendations or of the information concerning the recommendations:

(A) any person in a control relationship to the investment adviser;

(B) any affiliated person of a controlling person; and

(C) any affiliated person of an affiliated person;

(ii) "control" shall mean the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company. Any person who owns beneficially, either directly or through one or more controlled companies, more than twenty five percent (25%) of the voting securities of a company shall be presumed to control such company.

(d) An investment adviser shall not be deemed to have violated the provisions of Subsection A (13) above because of the failure to record securities transactions of any advisory representative if the investment

adviser establishes that it instituted adequate procedures and used reasonable due diligence to promptly obtain reports of all transactions required to be recorded;

(14) A copy of each written statement and each amendment or revision, given or sent, to any client or prospective client of the investment adviser, and a record of the dates that each written statement and each amendment or revision, was given, or offered to be given, to any client or prospective client who subsequently became a client;

(15) For each client that was obtained by the adviser by means of a solicitor to whom a cash fee was paid by the adviser:

(a) evidence of a written agreement to which the adviser is a party related to the payment of such fee;

(b) a signed and dated acknowledgment of receipt from the client evidencing the client's receipt of the investment adviser's disclosure statement and a written disclosure statement of the solicitor; and

(c) a copy of the solicitor's written disclosure statement. The written agreement, acknowledgment and solicitor disclosure statement will be considered to be in compliance if such documents are in compliance with Rule 275.206(4)-3 of the Investment Advisers Act of 1940.

For purposes of this Rule, the term "solicitor" shall mean any person or entity who, for compensation, acts as an agent of an investment adviser in referring potential clients;

(16) All accounts, books, internal working papers, and any other records or documents that are necessary to form the basis for or demonstrate the calculation of the performance or rate of return of all managed accounts or securities recommendations in any notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including but not limited to electronic media that the investment adviser circulates or distributes, directly, or indirectly, to two (2) or more persons (other than persons connected with the investment adviser); provided, however, that, with respect to the performance of managed accounts, the retention of all account statements, if they reflect all debits, credits, and other transactions in a client's account for the period of the statement, and all worksheets necessary to demonstrate the calculation of the performance or rate of return of all managed accounts shall be deemed to satisfy the requirements of this paragraph;

(17) A file containing a copy of all written communications received or sent regarding any complaints or litigation involving the investment adviser or any investment adviser representative or other employee, and any current or former customer or client;

(18) Written information about each investment advisory client that is the basis for making any recommendation or providing any investment advice to such client;

(19) Written procedures to supervise the activities of employees and investment adviser representatives that are reasonably designed to achieve compliance with applicable securities laws and regulations; and

(20) A file containing a copy of each document (other than any notices of general dissemination) that was filed with or received from any state or federal agency or self regulatory organization and that pertains to the registrant or its investment adviser representatives. The file should contain, but is not limited to, all applications, amendments, renewal filings, and correspondence.

B. If an investment adviser subject to Section A of this Rule has custody or possession of securities or funds of any client, the records required to be made and kept under Section A above shall include:

(1) A journal or other record showing all purchases, sales, receipts and deliveries of securities (including certificate numbers) for all accounts and all other debits and credits to the accounts;

(2) A separate ledger account for each client showing all purchases, sales, receipts and deliveries of securities, the date and price of each purchase and sale, and all debits and credits;

(3) Copies of confirmations of all transactions effected by or for the account of any client; and

(4) A record for each security in which any client has a position, which record shall show the name of each client having an interest in the security, the amount or interest of each client, and the location of each security.

C. Every investment adviser subject to Subsection A of this Rule who renders any investment supervisory or management service to any client shall, with respect to the portfolio being supervised or managed and to the extent that the information is reasonably available to or obtainable by the investment adviser, make and keep true, accurate and current:

(1) Records showing separately for each client the securities purchased and sold, and the date, amount and price of each purchase and sale; and

(2) For each security in which any client has a current position, information from which the investment adviser can promptly furnish the name of each client and the current amount or interest of the client.

D. Any books or records required by this Rule may be maintained by the investment adviser in such manner that the identity of any client to whom the investment adviser renders investment supervisory services is indicated by numerical or alphabetical code or some similar designation.

E. Every investment adviser subject to Section A of this rule shall preserve the following records in the manner prescribed:

(1) All books and records required to be made under the provisions of Subsections A to C (1), inclusive, of this Rule (except for books and records required to be made under the provisions of Subsections A (11) and A (16) of this Rule), shall be maintained and preserved in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on the record, the first two (2) years in the principal office of the investment adviser;

(2) Partnership articles and any amendments, articles of incorporation, charters, minute books, and stock certificate books of the investment adviser and of any predecessor, shall be maintained in the principal office of the investment adviser and preserved for at least three (3) years after termination of the enterprise;

(3) Books and records required to be made under the provisions of Subsections A (11) and A (16) of this Rule shall be maintained and preserved in an easily accessible place for a period of not less than five (5) years, the first two (2) years in the principal office of the investment adviser, from the end of the fiscal year during which the investment adviser last published or otherwise disseminated, directly or indirectly, the notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication, including communications made by electronic media;

(4) Books and records required to be made under the provisions of Subsections A (11) and A (16) of this Rule shall be maintained and preserved in an easily accessible place for a period of not less than five (5) years, the first two (2) years in the principal office of the investment adviser, from the end of the fiscal year during which the investment adviser last published or otherwise disseminated, directly or indirectly, the notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication, including communications made by electronic media; and

(5) Notwithstanding other record preservation requirements of this Rule, the following records or copies shall be required to be maintained at the business location of the investment adviser from which the customer or client is being provided or has been provided with investment advisory services: (a) records required to be preserved under Subsections A (3), A (7)-(10), A (14)-(15), A (17)-(19), B and C inclusive, of this Rule, and (b) the records or copies required under the provision of Subsections A (11) and A (16) of this Rule, which records or related records identify the name of the investment adviser representative providing investment advice from that business location, or which identify the business locations physical address, mailing address, electronic mailing address, or telephone number. The records will be maintained for the period described in Subsection E (1) of this Rule.

F. An investment adviser subject to Section A of this Rule, before ceasing to conduct or discontinuing business as an investment adviser shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this Rule for the remainder of the period specified in this Rule, and shall notify the Securities Commissioner in writing of the exact address where the books and records will be maintained during the period.

G. Preservation and reproduction of records

(1) The records required to be maintained and preserved pursuant to this Rule may be immediately produced or reproduced by photographic film or, as provided in Subsection G (2) below, on magnetic disk, tape or other computer storage medium, and be maintained and preserved for the required time in that form. If records are produced or reproduced by photographic film or computer storage medium, the investment adviser shall:

(a) arrange the records and index the films or computer storage medium so as to permit the immediate location of any particular record;

(b) be ready at all times to promptly provide a facsimile, enlargement of film or computer printout or copy of the computer storage medium which the Securities Commissioner, by his examiners or other representative may request;

(c) store separately from the original one other copy of the film or computer storage medium for the time required;

(d) with respect to records stored on computer storage medium, maintain procedures for maintenance and preservation of, and access to, records so as to reasonably safeguard records from loss, alteration, or destruction; and

(e) with respect to records stored on photographic film, at all times have available for the Securities Commissioner's examination of the records facilities for immediate, easily readable projection of the film and for producing easily readable facsimile enlargements.

(2) Pursuant to Subsection G (1) above an adviser may maintain and preserve on computer tape or disk or other computer storage medium, records which, in the ordinary course of the adviser's business, are created by the adviser on electronic media or are received by the adviser solely on electronic media or by electronic data transmission.

H. For purposes of this Rule, "investment supervisory services" means the giving of continuous advice as to the investment of funds on the basis of the individual needs of each client; and "discretionary power" shall not include discretion as to the price at which or the time when a transaction is to be effected, if, before the order is given by the investment adviser, the client has directed or approved the purchase or sale of a definite amount of the particular security.

I. Any book or other record made, kept, maintained and preserved in compliance with Rules 17a-3 [17 C.F.R. 240.17a-3] and 17a-4 [17 C.F.R. 240.17a-4] under the Securities Exchange Act of 1934, which is substantially the same as a book or other record required to be made, kept, maintained and preserved under this Rule, shall be deemed to be made, kept, maintained and preserved in compliance with this Rule.

J. Every investment adviser registered or required to be registered in this State that has its principal place of business in a state other than this State shall be exempt from the requirements of this Rule, provided the investment adviser is licensed in such state and is in compliance with such state's recordkeeping requirements.

SUBARTICLE FIVE

FRAUD AND LIABILITIES

REG.
13-501. Dishonest or Unethical Practices by Broker-Dealers.
13-502. Dishonest or Unethical Practices by Investment Advisers, Investment Adviser Representatives and Federal Covered Advisers.
13-503. Advertising Filing Requirement.

13-501. Dishonest or Unethical Practices by Broker-Dealers and Agents.

A. Broker-Dealers. Each broker-dealer shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business. Acts and practices, including but not limited to the following, are considered contrary to such standards and may constitute grounds for denial, suspension or revocation of registration, imposition of administrative fines, or such other action authorized by statute:

(1) Engaging in a pattern of unreasonable delays in the delivery of securities purchased by any of its customers and/or in the payment upon request of free credit balances reflecting completed transactions of its customers.

(2) Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account.

(3) Recommending to a customer the purchase, sale or exchange of any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer.

(4) Executing a transaction on behalf of a customer without authorization to do so.

(5) Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the execution of orders.

(6) Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account.

(7) Failing to segregate customers' free securities or securities held in safekeeping.

(8) Hypothecating a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent promptly after the initial transaction, except as permitted by the United States Securities and Exchange Commission (“SEC”) rule.

(9) Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit.

(10) Failing to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, either a final prospectus or a preliminary prospectus and an additional document, which together include all information set forth in the final prospectus.

(11) Charging unreasonable and inequitable fees for services performed, including miscellaneous services such as collection of monies due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business.

(12) Offering to buy from or sell to any person any security at a stated price unless such broker-dealer is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such to buy or sell.

(13) Representing that a security is being offered to a customer "at the market" or a price relevant to the market price unless such broker-dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created or controlled by such broker-dealer, or by any person for whom he is acting or with whom he is associated in such distribution, or any person controlled by, controlling or under common control with such broker-dealer.

(14) Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive or fraudulent device, practice, plan, program, design or contrivance, which may include but not be limited to:

(a) Effecting any transaction in a security which involves no change in the beneficial ownership thereof;

(b) Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security; provided, however, nothing in this Subsection shall prohibit a broker-dealer from entering bona fide agency cross transactions for its customers; or

(c) Effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others;

(15) Guaranteeing a customer against loss in any securities account of such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer.

(16) Publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona fide bid for, or offer of, such security;. (17) Using any advertising or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice would be a distribution of any nonfactual data, material or presentation based on conjecture, unfounded or unrealistic claims or assertions in any brochure, flyer, or display by words, pictures, graphs or otherwise designed to supplement, detract from, supersede or defeat the purpose or effect of any prospectus or disclosure.

(18) Failing to disclose that the broker-dealer is controlled by, controlling, affiliated with or under common control with the issuer of any security before entering into any contract with or for a customer for the purchase or sale of such security, the existence of such control to such customer, and if such disclosure is not made in writing,

it shall be supplemented by the giving or sending of written disclosure at or before the completion of the transaction.

(19) Failing to make a bona fide public offering of all of the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group, or from a member participating in the distribution as an underwriter or selling group member.

(20) Failing or refusing to furnish a customer, upon reasonable request, information to which he is entitled, or to respond to a formal written request or complaint.

(21) Violating any rule of the Securities and Exchange Commission, or of a national securities exchange or national securities association or self regulatory association of which it is a member.

(22) Knowingly paying or splitting fees or commissions with unlicensed persons except as otherwise allowed by law.

(23) Failing to pay within thirty (30) days any fine, cost or assessment by the Securities Commissioner or any arbitration award which is not the subject of a motion to vacate or modify the award or when such a motion has been denied.

(24) Engaging in any dishonest or unethical sales practice while engaged in a telephone solicitation to include any of the following:

(a) Telephoning any person using threats, intimidation, or the use of profane or obscene language in connection with securities solicitations, recommendations, transactions or other brokerage account activity;

(b) Telephoning any person in this state after that individual has requested that they not be telephoned;

(c) Telephoning any person repeatedly in an annoying, abusive, or harassing manner, either individually or in concert with others;

(d) Telephoning any person in this state between the hours of 9:00 PM and 8:00 AM local time at the called person's location without that individual's prior consent; or

(e) Telephoning any person in this state without providing at the beginning of any telephone solicitation both the caller's identity and the identity of the broker-dealer or issuer. A telephone solicitation is defined as any telephone contact or electronic communication used to offer or sell securities, to gather information used in qualifying persons for the purpose of establishing a securities account or to make securities recommendations.

B. Agents. Each agent shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business. Acts and practices, including but not limited to the following, are considered contrary to such standards and may constitute grounds for denial, suspension or revocation of registration, imposition of administrative fines, or such other action authorized by statute:

(1) Engaging in the practice of lending or borrowing money or securities from a customer, or acting as a custodian for money, securities or an executed stock power of a customer.

(2) Effecting securities transaction not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction.

(3) Establishing or maintaining an account containing fictitious information in order to execute transactions which would otherwise be prohibited.

(4) Sharing directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer which the agent represents.

(5) Dividing or otherwise splitting the agent's commissions, profits or other compensation from the purchase or sale of securities with any person not also registered as an agent for the same broker-dealer, or for a broker-dealer under direct or indirect common control.

(6) Engaging in conduct specified in Subsection A (2), (3), (4), (5), (6), (9), (10), (14), (15), (16), (17), (20), (21), (22), (23) or (24).

C. Conduct Not Inclusive. The conduct set forth in Sections A and B above is not inclusive. Engaging in other conduct such as forgery, embezzlement, non-disclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices shall also be grounds for denial, suspension or revocation of registration, imposition of administrative fines, or such other action authorized by statute.

13-502. Dishonest or Unethical Practices by Investment Advisers, Investment Adviser Representatives and Federal Covered Advisers.

A. Each investment adviser and investment adviser representative shall observe high standards of commercial honor and just and equitable principals of trade in the conduct of their business. Acts and practices, including but not limited to the following, are considered contrary to such standards and may constitute grounds for denial, suspension or revocation of registration, imposition of administrative fines, or such other action authorized by statute:

(1) Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known or acquired by the adviser after reasonable examination of the client's records as may be provided to the adviser.

(2) Placing an order to purchase or sell a security for the account of a client without authority to do so.

(3) Placing an order to purchase or sell a security for the account of a client upon instruction of a third-party without first having obtained a written third-party trading authorization from the client.

(4) Exercising any discretionary power in placing an order for the purchase or sale of securities without first obtaining written discretionary authority unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of specified securities shall be executed, or both.

(5) Inducing trading in a client's account that is excessive in size and frequency in view of the financial resources, investment objectives and character of the account.

(6) Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the adviser, or a financial institution engaged in the business of loaning funds or securities.

(7) Loaning money to a client unless the adviser is a financial institution engaged in the business of loaning funds or the client is an affiliate of the adviser.

(8) Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the adviser, its representatives or any employees or misrepresenting the nature of the advisory services being offered or fees to be charged for such services or omitting to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading.

(9) Providing a report or recommendation to any adviser client prepared by someone other than the adviser, without disclosing that fact except that this prohibition does not apply to a situation where the adviser uses published research reports or statistical analyses to render advice or where an adviser orders such a report in the normal course of providing service.

(10) Charging a client an advisory fee that is unreasonable.

(11) Failing to disclose to a client in writing before entering into or renewing an advisory agreement with that client any material conflict of interest relating to the adviser, its representatives or any of its employees, which could reasonably be expected to impair the rendering of unbiased and objective advice including:

(a) Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; and

(b) Charging a client an advisory fee for rendering advice without disclosing that a commission for executing securities transactions pursuant to such advice will be received by the adviser, its representatives or its employees or that such advisory fee is being reduced by the amount of the commission earned by the adviser, its representatives or employees for the sale of securities to the client.

(12) Guaranteeing a client that a specific result will be achieved (gain or no loss) as a result of the advice which will be rendered.

(13) Publishing, circulating or distributing any advertisement which does not comply with Rule 206(4)-1 under the Investment Advisers Act of 1940.

(14) Disclosing the identity, affairs, or investments of any client to any third party unless required by law to do so, or unless consented to by the client.

(15) Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the adviser has custody or possession of such securities or funds when the adviser's

action is subject to and does not comply with the safekeeping requirements of Rule 206(4)-2 under the Investment Advisers Act of 1940.

(16) Entering into, extending or renewing any investment advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee or the formula for computing the fee, the amount or the manner of calculation of the amount of the prepaid fee to be returned in the event of contract termination or non-performance, whether the contract grants discretionary power to the adviser or its representatives and that no assignment of such contract shall be made by the adviser without the consent of the other party to the contract.

(17) Failing to establish, maintain, and enforce written polices and procedures reasonably designed to prevent the misuse of material nonpublic information in violation of Section 204A of the Investment Advisers Act of 1940.

(18) Entering into, extending, or renewing any advisory contract which would violate section 205 of the Investment Advisers Act of 1940. This provision shall apply to all investment advisers registered or required to be registered under the South Carolina Uniform Securities Act of 2005, notwithstanding whether such investment adviser would be exempt from federal registration pursuant to section 203(b) of the Investment Advisers Act of 1940.

(19) Indicating, in an advisory contract, any condition, stipulation, or provisions binding any person to waive compliance with any provision of the South Carolina Uniform Securities Act of 2005 or of the Investment Advisers Act of 1940, or any other practice that would violate section 215 of the Investment Advisers Act of 1940.

(20) Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative in contravention of section 206(4) of the Investment Advisers Act of 1940, notwithstanding the fact that such investment adviser is not registered or required to be registered under section 203 of the Investment Advisers Act of 1940.

(21) Employing any device, scheme, or artifice to defraud or engaging in any act, practice or course of business which operates or would operate as a fraud or deceit.

(22) Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of this act or any rule or order thereunder.

B. The conduct set forth above is not inclusive. Engaging in other conduct such as non-disclosure, incomplete disclosure, or deceptive practices shall also be grounds for denial, suspension or revocation of registration, imposition of administrative fines, or such other action authorized by statute.

C. The provisions of this rule apply to federal covered advisers to the extent that the conduct alleged is fraudulent, deceptive, or other conduct not excluded from regulation pursuant to the National Securities Markets Improvement Act of 1996 (Pub. L. 104-290). The federal statutory and regulatory provisions referenced in this Rule shall apply to investment advisers, investment adviser representatives and federal covered advisers, regardless of whether the federal provision limits its application to advisers subject to federal registration.

13-503. Advertising Filing Requirement.

Any prospectus, pamphlet, circular, form letter, advertisement, sales literature, or other advertising relating to a security or investment advice regarding securities, addressed or intended for distribution to prospective investors, including clients or prospective clients of a person registered as an investment adviser, under the South Carolina Uniform Securities Act of 2005, must be filed with the Securities Commissioner at least ten (10) business days prior to use in this State. The filing of an advertisement (or receipt thereof) does not constitute approval or a finding by the Securities Commissioner that the document is true, complete, or not misleading.

SUBARTICLE 6

ADMINISTRATION AND JUDICIAL REVIEW

REG.
13-601. Financial Statements Submitted with an Application to Register Securities or used in a Prospectus.
13-602. Prospectus, Offering Circular, Exemption and Exception Filing Fees.
13-603. Consents to Service of Process.

13-601. Financial Statements Submitted with an Application to Register Securities or used in a Prospectus.

A. All financial statements submitted with an application to register securities or for inclusion in a Prospectus used in this State, except a Prospectus relating to a federal covered security, shall be certified by an Independent Public Accountant regularly engaged in business as such; provided, however (1) that interim statements prepared since the close of the last fiscal year shall not be required to be certified if prepared on a basis comparable to those certified, and (2) that financial statements approved by the South Carolina Department of Insurance or the United States Securities and Exchange Commission ("SEC") may be accepted by the Securities Commissioner in his discretion.
B. Where a company has been in business for less than one (1) year and submits one statement only which covers a period of less than one (1) year, such statement shall be certified.
C. A report signed by the Independent Public Accountant should accompany the statements.
D. Financial statements filed with an application for registration of securities shall be updated when necessary so that the Prospectus as finally approved and in definitive form shall contain statements as of a date not more than six (6) months prior to the date of the Prospectus.
E. A Prospectus relating to securities in registration should be amended or supplemented whenever necessary to reflect any material changes, but in any event at least once in any period of twelve (12) consecutive months, in order to bring financial data up to date. Failure of the registrant to do so shall be considered cause for suspension of registration. The Securities Commissioner shall have discretion to determine whether to require the reprinting of the entire Prospectus.
F. The Securities Commissioner by rule or order, may waive any or all of the provisions of this Order.

13-602. Prospectus, Offering Circular, Exemption and Exception Filing Fees.

A. Filing fees to accompany prospectus or offering circular**.**
(1) A filing fee of fifty ($50.00) dollars shall accompany any Prospectus or Offering Circular amended subsequent to effectiveness of registration or filed for the purpose of maintaining registration or notice filing of the securities.
(2) A fee of one hundred ($100.00) dollars shall accompany a request for a review by the Securities Commissioner of any preliminary or definitive Prospectus or Offering Circular for the purpose of obtaining an opinion on the eligibility of the securities for registration.
B. Fees to accompany a request for confirmation of the availability of an exemption or exception.
(1) A fee of one hundred fifty ($150.00) dollars shall accompany the filing of a request for confirmation of the availability of an exemption under Section 35-1-201(7) of the South Carolina Uniform Securities Act of 2005, as amended.
(2) A fee of one hundred fifty ($150.00) dollars shall accompany the filing of a request for confirmation of the availability of an exemption under Section 35-1-201 or 35-1-202 (other than Section 35-1-201(7)) or an exception under Section 35-1-102 of the South Carolina Uniform Securities Act of 2005, as amended.

13-603. Consents to Service of Process

The filing of a Uniform Form U-2 constitutes compliance with Section 35-1-611(a) of the South Carolina Uniform Securities Act of 2005.

SUBARTICLE 7

TRANSITION AND FEE PROVISIONS (RESERVED)

Fiscal Impact Statement:

No additional costs to the State and its political subdivisions are anticipated.

Statement of Rationale:

During its 2005 session, the General Assembly enacted the South Carolina Uniform Securities Act of 2005. The new act was written to modernize the State's previous Uniform Securities Act (as located at S.C. Code Section 35-1-10 *et seq*.), minimize the duplication of state and federal regulation, and establish uniformity with the securities legislation of other states to the extent practical. Under the South Carolina Uniform Securities Act of 2005, the Securities Commissioner continues to have responsibility for promulgating rules and regulations that specify filing fees and other requirements for persons to engage in the securities industry in South Carolina and penalties for non-compliance with the law. The regulations are promulgated under this authority to provide specific guidelines concerning registration, exemptions, filing requirements, and similar topics to persons engaging in the securities industry in South Carolina. Further, the regulations set forth standards of practice for broker-dealers, broker-dealer agents, investment advisers, federal-covered advisers, and investment adviser representatives that serve to protect South Carolina investors from dishonest and unethical business practices.

Document No. 3007
CLEMSON UNIVERSITY
STATE CROP PEST COMMISSION
CHAPTER 27
Statutory Authority: Chapter 9, Title 46, 1976 Code

Synopsis:

The imported fire ant has been discovered in all counties of the state and this amendment extends the quarantine to the entire state.

Instructions: Delete the current Regulation Section 27-131, Subsection A, in its entirety and replace the deleted material with the regulation cited in the text below.

Text:

27-131. Regulated Areas.
A. Generally Infested Areas. The Entire State.

Fiscal Impact Statement:

The agency believes there will no significant fiscal impact on the State or any of its subdivisions.

Statement of Rationale:

The agency believes that this amendment does not constitute a significant amendment to an existing regulation and consequently no detailed statement of rationale is required.

Document No. 3011
CLEMSON UNIVERSITY
LIVESTOCK POULTRY HEALTH COMMISSION
CHAPTER 27
Statutory Authority: Chapter 4, Title 47, 1976 Code

Synopsis:

The Commission has previously determined that scrapie was a serious disease involving sheep and goats. It is a priority item for federal animal health. Notice of Drafting was published in the State Register on August 26, 2005, initially involving modifications to Regulations 27-1010, 27-1013 and 27-1015.No comments were received. However as discussions unfolded it was determined to be administratively to modify Regulation 27-1020.

Section-by Section Discussion

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27-1020 Intrastate Movement of Certain Animals
A.1. this section defines the species of animals affected by this regulation. These definitions are taken from federal regulations as found in 9 CFR Part 79.
2. This section specifies certain procedures which must be performed should scrapie be detected in the designated species of animals.

Instructions: Delete the current Regulations Section 27-1020 in its entirety and replace the deleted material with the regulation cited in the text below.

Text:

27-1020. INTRASTATE MOVEMENT OF CERTAIN ANIMALS

A. Sheep and Goats
1. Definitions
a. Commercial hair sheep. Any commercial sheep with hair rather than wool that is either a full-blooded hair sheep or that resulted from the cross of a hair sheep with a white-faced wool sheep.
b. Commercial sheep or goat. Any animal from a flock from which animals are moved only either directly to slaughter or through slaughter channels to slaughter or any animal that is raised only for meat or fiber production and that is not registered with a sheep or goat registry or used for exhibition.
c. Exposed animal:
i. Any animal that has been in the same flock at the same time as a scrapie-positive female animal, excluding limited contacts; or
ii. Any animal born in a flock after a scrapie-positive animal was born into that flock or lambed in that flock, if born before that flock completes the requirements of a flock plan; or
iii. Any animal that was commingled with a scrapie-positive female animal during or up to 30 days after she lambed, kidded, or aborted, or while a visible vaginal discharge was present, or that was commingled with any other scrapie-positive female animal for 24 hours or more, including during activities such as shows and sales or while in marketing channels; or
iv. Any animal in a noncompliant flock.
d. Exposed flock. Any flock in which a scrapie-positive animal was born or lambed. Any flock that currently contains a female high-risk, exposed, or suspect animal that lambed in the flock and from which tissues were not submitted for official testing and found negative. A flock that has completed a post-exposure management and monitoring plan following the exposure will no longer be an exposed flock.
e. Official ear tag. An identification eartag approved by APHIS as being sufficiently tamper-resistant for the intended us and providing unique identification for each animal. An official eartag may conform to the alphanumeric National Uniform Eartagging system of another system approved by APHIS, or it may bear a

premises identification number that either contains or is used in conjunction with the producer's livestock production numbering system to provide a unique identification number.

f. Official identification. Identification mark or device approved by APHIS for use in the Scrapie Eradication Program. Examples are listed in 9 CFR 79.2(a)(2).

g. Official identification device or method. A means of officially identifying an animal or group of animals using devices or methods approved by the AHPHIS Administrator, including, but not limited to, official tags, tattoos, and registered brands when accompanied by a certificate of inspection from a recognized brand inspection authority.

2. Official identification is required upon change of ownership of all sheep and goats of any age not in slaughter channels and any sheep over 18 months of age as evidenced by eruption of the second incisor such that the animal may be traced to its flock of birth; provided however:

a. Commercial goats in intrastate commerce that have not been in contact with sheep are exempt from this identification requirement. If there is a case of scrapie in a commercial goat in South Carolina that originated in South Carolina and cannot be attributed to exposure to infected sheep, or if there is an exposed commercial goat herd in South Carolina, then this exemption is automatically revoked upon publication in the State Register that such disease has been detected. The Director shall proceed expeditiously to publish such notice, but in no case shall such notice be published more than 90 days after detection of such disease.

b. Commercial whitefaced sheep of commercial hair sheep are exempt from this identification requirement. If there is a case of scrapie in the exempted class that originated in South Carolina, then this exemption is automatically revoked upon publication in the State Register that such disease has been detected. The Director shall proceed expeditiously to publish such notice, but in no case shall such notice be published more than 90 days after detection of such disease.

B. (Reserved)

Statement of Rationale:

These regulations are proposed to allow South Carolina to maintain its Consistent State Status for Scrapie under 9 CFR 79.6. Maintaining Consistent State Status will allow South Carolina sheep and goat producers to move their animals in interstate commerce without additional restrictions which apply to animals from non-consistent states. These regulations represent the minimum requirements specified for Consistent State Status.

Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Document No. 3008
CLEMSON UNIVERSITY
STATE CROP PEST COMMISSION
CHAPTER 27
Statutory Authority: Chapter 9, Title 46, 1976 Code

Synopsis:

A(1) The State Crop Pest Commission has been delegated the authority to regulate commercial fertilizers, including soil amendments. The change here is to substitute the Commission for the "Board of Trustees" and to define the term "Commission". (Note: the term "Commission" is to be substituted for the term "board" wherever it appears through the regulation.)

(2) This section changes the definition of "soil amendment" by specifically defining those substances which are not "soil amendments".

B(3) The term “Director of the Agricultural Experiment Station” is changed to the “Director of the Clemson Experiment Station” to conform to administrative re-alignment.
D(1) The fee charged for inspection is changed to $1.00 per ton vice $5.00 per ton.
(2) The frequency of reporting is changed from monthly to quarterly.

Instructions: Amend 27-182 A(1),(2), B(3), and D(1),(2) with the text below.

Text:

27-182 Requirements for Distribution, Labeling and Sale of “Soil Amendments”.

A. Definition of Terms
(1) For the purpose of this regulation, the term “commission” means the State Crop Pest
Commission or an officer or employee of the commission to whom it delegates its authority. For the purpose of the administration of this regulation the commission is represented by the Head of Department of Plant Industry (or duly designated successor).

(2) The term “soil amendment” as described in Section 46-25-20 shall include any and every substance or mixtures of: that is intended to improve the physical characteristics of the soil, except commercial fertilizers, agricultural liming materials, unmanipulated animal manures, unmanipulated vegetable manures, pesticides and other materials exempted by regulation.

B. Labeling
(3) The board may require proof of claims made for any soil amendment. If no claims are made, proof of usefulness and value of the soil amendments may be required. For evidence of proof the board may rely on scientifically accepted, experimental data and evaluations. The experimental design shall be related to conditions applicable to South Carolina. The board may request assistance from the Director of the Clemson Experiment Station or the Director of the Cooperative Extension Service or persons under their supervision for interpretation of data and for advice of the acceptability of data. Scientific data from any source may be used by the board as a basis for acceptance or rejection of claims.

D. Inspection Fee.
(1) There shall be paid to the board for all soil amendments distributed in this state an inspection fee of $1.00 per ton.
(2) Every person who distributes a soil amendment in the state shall file with the board on forms furnished by the board quarterly statements for periods ending September 30, December 31, March 31, and June 30 setting forth the number of net tons of each soil amendment distributed in the state during such quarter. The report shall be due within 30 days following each quarter. Such statement shall be accompanied by a payment of the inspection fee at the rate of $1.00 per ton.

Fiscal Impact Statement:

The agency believes there will be no significant fiscal impact on the State or any of its subdivisions.

Statement of Rationale:

The agency believes that this amendment does not constitute a significant amendment to an existing regulation and consequently no detailed statement of rationale is required.

Resubmitted: March 10, 2006

Document No. 3027
STATE BOARD OF EDUCATION
Chapter 43
Statutory Authority: Students Health and Fitness Act, 2005 S.C. Acts 59
(to be codified at S.C. Code Ann. § 59-1-310) and S.C. Code Ann. § 59-5-60 (2004)

43-168, Nutrition Standards for Elementary (K–5) School Food Service Meals and Competitive Foods

Synopsis:

The State Board of Education proposes a new regulation that addresses nutrition standards for elementary school food service meals and competitive foods. The proposed regulation addresses the requirements for elementary (K–5) school food service meals and competitive foods based upon the recommendations outlined in the State Department of Education Task Force on Student Nutrition and Physical Activity report, National School Lunch Act, and the most recent applicable Dietary Guidelines for Americans.

Section-by-Section Discussion
R 43-168 is a new regulation with the following.

Section I	Adds section title
Section I.A	Delineates number of choices for the entrées at lunch, provides measures to obtain student and parent input into selection of food items, and allows students to purchase additional servings of school meal components.
Section I.B	Delineates the minimum number of choices and nutrient composition of various components of school meals.
Section II	Adds section title.
Section II.A	Delineates the nutritional composition of one serving of snacks, sweets, and side dishes. Limits size of single-serving food items sold to students based on type of food.
Section II.B	Specifies what beverages are available to students at public school sites during the school day and what beverages cannot be sold or served until the last scheduled class. Delineates the maximum serving sizes for beverages.

Instructions: Add new R 43-168, Nutrition Standards for Elementary (K–5) School Food Service Meals and Competitive Foods, to Chapter 43 regulations.

Text:

43-168 Nutrition Standards for Elementary Schools (K–5) School Food Service Meals and Competitive Foods

I. School Meals

Federal law—specifically, the National School Lunch Act (42 U.S.C. § 1758(f), the National School Lunch Program (7 C.F.R. § 210.10), and the School Breakfast Program (7 C.F.R. § 220.8)—regulates the nutritional quality of foods served in the nation's school meal programs. For a school meal program to receive USDA subsidies, school meals must meet nutrition standards for saturated fat, vitamins, minerals, protein, calories, and portion sizes.

A. School food service meals should be made attractive to students by appealing to their taste preferences and meeting their cultural needs. Therefore, school districts must

1. Offer a choice of entrées at lunch—a minimum of two in elementary (K–5) schools (one choice may be an entrée salad).

2. Encourage input regarding the selection of food items in elementary (K–5) schools to be offered in the school meal programs by promoting and encouraging student and parent participation in taste-testing events, in menu-review panels, and in online recipe reviewing.

3. Require that school cafeteria managers meet with student advisory committees in grades four through five a minimum of twice each year.

4. Allow students to purchase at à la carte prices additional servings of any food item that is part of a reimbursable school meal (serving sizes should be comparable to those of the meal components).

B. School food service meals should not only provide the optimal nutrition that students need for growth, development, and academic achievement but should also support the development of healthful eating behaviors in students, including their learning to eat a variety of foods. Therefore, school districts must

1. Offer a minimum of three milk choices (2 percent fat, 1 percent fat, and nonfat milk) for all grade levels at breakfast and lunch. Whole milk is no longer required by USDA regulations.

2. Offer a low-fat meal choice (30 percent or less of calories from fat) at every meal.

3. Provide low-fat and nonfat salad dressings.

4. Provide information on calories, percentages of fat, and serving sizes of school meal items to help children select appropriate portions of food.

5. Offer a minimum of four choices of fruits and vegetables daily, including fresh fruits and vegetables in season, in elementary (K–5) schools (salad bars or prepackaged salads may be included). Students can take two to four servings based on the school district's discretion.

6. Offer whole-grain foods in all programs in elementary (K–5) schools, whenever possible, to meet bread and cereal requirements.

7. Encourage preschool, kindergarten, and elementary students to try a variety of foods by serving the full reimbursable meal.

II. Other Foods and Beverages (Competitive Foods)

A. All foods sold at any K–5 public school site should not only provide the optimal nutrition that students need for growth, development, and academic achievement but should also support the development of healthful eating behaviors in students. Therefore, school districts must

1. Ensure that one serving of snacks, sweets, and side dishes has no more than 30 percent of calories from fat, less than 10 percent of calories from saturated fat, no more than 1 percent of calories from trans fatty acids, and no more than 35 percent of added sugar by weight. (Note: Nuts, seeds, and some cheeses are exceptions. Although more than 30 percent of their calories come from fat, these foods can be considered appropriate and nutritious snacks when served in small portions.)

2. Limit single-serving food items sold to students to the following maximum portion sizes: 1.25 ounces for snacks (includes baked chips, crackers, popcorn, cereal, trail mix, nuts, seeds, dried fruits, jerky); 2 ounces for cookies or cereal bars; 3 ounces for other bakery items (sweet rolls, muffins, etc.); 4 ounces for

frozen desserts, including ice cream; 8 ounces for yogurt (not frozen); and ½ cup for fried potatoes or other fried vegetables.

3. Ensure that single servings of entrée items and side dishes are no larger than the portions of those foods served by school food services.

B. All beverages sold or otherwise made available to students at any K–5 public school site should not only provide the optimal nutrition that students need for growth, development, and academic achievement but should also support the development of healthful eating behaviors in students. Therefore, school districts must

1. Make the following beverages available to all students: low-fat, nonfat, and 2 percent milk, water, and 100 percent juices that do not contain added sugars or sweeteners.

2. Not sell or serve the following beverages to students until after the last regularly scheduled class: soda, soft drinks, sports drinks, punches, iced teas and coffees, and fruit-based drinks that contain less than 100 percent real fruit juice or that contain added sweeteners.

3. Not sell beverages—except water or nonfat, low fat, or reduced-fat milk—in portions larger than 12 ounces.

Statement of Rationale: A copy of the detailed statement of rationale can be obtained by writing to Dr. Vivian Pilant, Director, Office of School Food Services and Nutrition, Division of School Enterprise Operations, State Department of Education, 1429 Senate Street, Rutledge Building, Room 201, Columbia, South Carolina 29201 or e-mail vpilant@sde.state.sc.us. The new regulation will address nutrition standards for elementary school food service meals and competitive foods.

Fiscal Impact Statement: Information from school food service directors indicates there would be little, if any, fiscal impact except revenues for reimbursable meals would increase if school meal participation increased. School meal participation generally increases when choices are offered. Per meal costs are not increased as pre-planning and post-production records are used to predict amounts of food to produce.

Document No. 3029

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: S.C. Code Ann.§ 59-5-60 (2004) and § 59-25-110 (2004)

R 43-53.1. Requirements for Credential Advancement

Synopsis: Promulgate repeal of 24 S.C. Code Ann. Regs. 43-53.1, Requirements for Credential Advancement. The State Board of Education (SBE) promulgated the repeal of this regulation in 2003; however, because of a clerical error, it was not reported as repealed.

Instructions: Repeal in its entirety R 43-53.1, Requirements for Credential Advancement, from Chapter 43 regulations.

Text:

To advance a credential from one classification to another, the applicant must provide to the Office of Teacher Education, Certification and Evaluation the following:

1. A written request to have the certificate advanced;

2. The required documentation that State Board of Education requirements have been met for certificate advancement; and

3. The required fee for advancement of the certificate.

Rationale: A copy of the detailed statement of rationale may obtained by contacting Dr. Janice Poda, Deputy Superintendent, Division of Educator Quality and Leadership, 3700 Forest Drive, Suite 500, Columbia, SC, or e-mail jpoda@scteachers.org

Fiscal Impact Statement: There will be no increased costs to the state or its political subdivisions.

Document No. 3028
STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: S. C. Code Ann. Sections 59-5-60 (2004) and 59-25-110 (2004)

43-53.2. Types and Levels of Credential Classification

Synopsis:

Promulgate repeal of 24 S.C. Code Ann. Regs. 43-53.2, Types and Levels of Credential Classification. The State Board of Education (SBE) promulgated the repeal of this regulation in 2003; however, because of a clerical error, it was not reported as repealed.

Section-by-Section Discussion:

This regulation is being repealed.

Instructions: Repeal in its entirety R 43-53.2, Types and Levels of Credential Classification, to Chapter 43 regulations.

Text:

A. Initial Certificate

An initial certificate is valid for three years and may be renewed one time. Upon successful completion of the induction program, ancillary requirements, and the annual-contract year, the teacher shall be eligible for a professional certificate. To qualify for an initial certificate, an applicant must fulfill the following:

1. Earn an undergraduate or graduate degree in an approved teacher education program from an institution accredited for general collegiate purposes by a regional or national accreditation association or through a South Carolina institution with programs approved for teacher education by the South Carolina State Board of Education. Professional education credit must be earned through an institution that has a teacher education program approved for initial certification.

2. Score the minimum qualifying score(s) on the required specialty area examination(s).

3. Submit a complete application and receive a clear FBI fingerprint review. Eligible applicants who have prior arrests and/or prior convictions must undergo a review by the State Board of Education and be approved before a certificate may be issued.

B. Professional Certificate (Multiple Levels)

All professional certificates are valid for five years. To qualify for each successive level of professional certification, an applicant must fulfill the following requirements.

1. Professional

a. Meet all criteria for an initial area of certification and have earned a bachelor's degree that meets State Board of Education regulations for teacher certification and program approval.

b. Successfully complete the induction program, ancillary requirements, and the annual-contract year.

OR

c. Successfully complete the requirements for reciprocity according to the Interstate Agreement on Qualification of Educational Personnel.

2. Bachelor's Degree plus Eighteen Hours

a. Meet all criteria for an initial area of certification and have earned a bachelor's degree that meets State Board of Education regulations for teacher certification and program approval.

b. Have eighteen (18) hours of graduate credit in one specialty/content area (these may include add-on certification). Educators must follow the approved procedure for the identification of the graduate specialty/content area and completion of the coursework within seven (7) years after the request. Individuals who do not complete the requirements during the seven years must request a new evaluation of their teaching credentials and meet the new requirements.

3. Master's Degree

a. Meet all requirements for an initial area of certification.

b. Have earned a master's degree that meets State Board of Education regulations for teacher certification and program approval.

4. Specialist

a. Meet all requirements for an initial area of certification. Educators must follow the approved procedure for the identification of the graduate specialty/content area and completion of the coursework within seven (7) years after the request. Individuals who do not complete the requirements during the seven years must request a new evaluation of their teaching credentials and meet the new requirements.

b. Have earned an additional master's degree or specialist's degree that meets State Board of Education regulations for teacher certification and program approval.

c. Have thirty (30) semester hours of graduate credit above the master's degree in a planned area of concentration (these hours may or may not be in the teacher's initial area of certification).

5. Doctorate

a. Meet all requirements for an initial area of certification.

b. Have earned a doctoral degree that meets State Board of Education regulations for teacher certification and program approval.

C. Temporary Certificate

A temporary certificate is valid for a period of one year and can be renewed twice provided that evidence of progress toward full certification is submitted in the form of course work or required test scores. Once requirements have been met, the teacher is eligible to apply for a professional certificate. Temporary certificates may be issued to individuals in the following circumstances:

1. Out-of-State Certified Teacher

Any person who holds a valid teaching certificate from another state but does not meet one or more of South Carolina's certification requirements is eligible for a temporary certificate until he or she meets the ancillary requirements for the initial or the professional certificate.

2. School Psychologist

Any person who is serving the required internship for certification as a School Psychologist I or II under the supervision of a certified School Psychologist II or III or who is serving the required internship for School Psychologist III under the supervision of a certified School Psychologist III is eligible for a temporary certificate.

a. Written documentation must be provided that the individual requesting the temporary certificate is enrolled in and working toward full certification as a school psychologist and that the internship is served through a State Board of Education approved training program.

b. The temporary certificate may be renewed once based upon written documentation from the director of the school psychology program that the applicant is a full-time student in the program during the second year of the renewed certificate.

3. Speech-Language Therapist

Any person who holds the Certificate of Clinical Competence in speech pathology issued by the American Speech-Language Hearing Association (ASHA) or who has completed a master's degree that includes the academic and clinical requirements for the ASHA Certificate of Clinical Competence and has achieved the minimum qualifying score on the State Board of Education required examination will be issued a temporary certificate upon verification of an employment offer by a South Carolina public school district.

a. The temporary certificate will be effective for one academic year and will be converted to the professional certificate upon a successful evaluation of the individual's duties during the initial year of his or her employment.

b. Individuals who qualify and previously have served satisfactorily full-time as a speech therapist for at least one year in a K–12 setting may be issued the professional certificate initially. An employment offer is not required for the professional certificate.

4. Out-of-Field Permit

Any person who holds a valid South Carolina temporary or professional certificate and is assigned duties in an area for which he or she is not appropriately certified is eligible to receive a permit to teach out of field. However, permits are not issued for school psychologists and speech and language therapists.

Out-of-field permits are issued under the following conditions:

a. Out-of-field permits are issued only at the request of the employing school district. The employing district shall apply for a permit no later than thirty (30) days after the date of assignment. Out-of-field permits are issued only for the academic year in which they are requested of their teaching credentials and expire June 30.

b. To qualify for a permit, a person shall have a valid South Carolina teaching credential and twelve (12) semester hours of credit toward full certification in the area of preparation for which the permit is requested.

c. A permit may be renewed upon presentation of six (6) semester hours of credit in the area for which the permit is issued prior to issuance of another permit in the same area.

d. Once the requirements are met, including the required test score, the teacher may apply for certification in the new area.

D. Graded Certificates and Warrants

The State Board of Education discontinued the issuance of graded certificates on July 1, 1971, and warrants in November 1976.

1. Graded Certificate

To qualify for the professional certificate, a person who currently holds a grade B, C, or D certificate must fulfill one of the following requirements:

a. achieve the minimum required score on the required specialty area examination(s) or

b. add an additional area of certification to the initial graded certificate by meeting all requirements of the State Board of Education for an additional area, including at least a minimum qualifying score on the required specialty area examination(s) *and* verification of at least three (3) years of teaching experience in that additional area of certification.

2. Warrant Certificate

To qualify for a professional certificate or maintain a warrant, a person must

a. earn the required six (6) semester hours or the equivalent every five (5) years as provided in renewal requirements and

b. remove all certification shortages (specialty area examination[s] and/or course requirements) by meeting current certification requirements.

c. Only bachelor's degree-level certifications may be added to a warrant certificate.

E. Special Subject

Upon request by the school district, the State Board of Education may grant approval for issuing a special subject certificate to any individual who qualifies under the guidelines established by the State Board of Education.

Statement of Rationale: A copy of the detailed statement of rationale may obtained by contacting Dr. Janice Poda, Deputy Superintendent, Division of Educator Quality and Leadership, 3700 Forest Drive, Suite 500, Columbia, South Carolina 29201 or e-mail jpoda@scteachers.org

Fiscal Impact Statement: There will be no increased costs to the state or its political subdivisions.

Document No. 3005
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Ann. Section 49-5-10 *et seq*., as amended

(1) Repeal of Regulation 121-1, *Capacity Use Declaration, Waccamaw Area*
(2) Repeal of Regulation 121-2*, Capacity Use Declaration, Low Country Area*
(3) New Regulation 61-113, *Groundwater Use and Reporting*

Synopsis:

The Department is simultaneously repealing Regulations 121-1, *Capacity Use Declaration, Waccamaw Area* and 121-2, *Capacity Use Declaration, Low Country Area*, and replacing them with one new Chapter 61 regulation that addresses these regulations and other groundwater withdrawals in all designated capacity use areas.

The new regulation will standardize and provide procedures necessary for obtaining a permit to withdraw, obtain, or utilize groundwater and to construct, maintain, and operate groundwater withdrawal wells within designated capacity use areas including, but not limited to: submission of information concerning the amount of groundwater withdrawal, its intended use, aquifer or aquifers utilized, well construction information, conservation and management programs, and other information necessary to aid in evaluating the effect of existing or proposed groundwater withdrawal or use on the water resource of the area or areas. The regulation will also provide measures to abate and/or control saltwater encroachment, and measures to prevent or mitigate unreasonable adverse effects on water users or water uses within designated capacity use areas. Text of Regulations 121-1 and 121-2 that will be moved into the new regulation will incorporate editorial changes and corrections for readability, grammar, punctuation, typography, references, and language style.

The regulation will allow future designated capacity use areas to conform to existing areas without need for promulgating area specific regulations or amending existing regulations for each new capacity use area designation.

See Discussion below and Statements of Need and Reasonableness and Rationale herein.

Discussion of New Regulation:

R.61-113, Groundwater Use and Reporting

Section A. Purpose and Scope. This section addresses the purpose and scope and identifies the enabling statute for this regulation. The standards developed in this regulation are necessary to maintain, conserve, and protect the groundwater resources of South Carolina. The text from the existing *Regulations121-1/(121-2), Sections 121-1/(121-2), Capacity Use Area descriptions*, and *121-1.1/(121-2.1)*, *Purpose*, was deleted and replaced by this section.

Section B. Definitions. This section adds 23 new definitions as follows: “Aquifer Storage and Recovery”, “Available precipitation”, “Bedrock”, “Best Management Plan”, “Board”, “Capacity Use Area”, “Certified well driller”, “Coastal Plain”, “Department”, “Drawdown”, Effluent”, “Emergency well”, “Evapotranspiration”,

"Flowing well", "Groundwater Withdrawal Permit", "Groundwater withdrawer", "Irrigation requirement", "Limestone", "Marl", "Permit to Construct", "Permittee", "Public water system", and "Surface water".

This section deletes definitions from the existing *Regulations121-1/(121-2), Section 121-1.2/(121-2.2), Definitions,* as follows: "Contractor", "Existing water user", "Freshwater", "Interceptor well", "Relief well", "Saltwater-freshwater interface", "Well field", and "Zone of influence".

This section transfers and revises definitions from the existing *Regulations121-1/121-2, Section 121.2/(121-2.2), Definitions,* as follows: "Abandoned well", "Annular space", "Aquifer", "Artificial filter", "Artificial filter well", "Cone of depression", "Confining bed", "Consumptive use", "Dewatering operation", "Domestic well", "Geophysical log", "Groundwater", "Industrial well", "Irrigation well", "Non-consumptive use", "Person", "Pumping water level", "Rated capacity", "Saltwater", "Saltwater intrusion", "Static water level", "Well", "Well interference". Existing text from *Regulation 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

Section C. Applicability of Regulations. This section is added to address the applicability of the regulation. The standards contained herein apply to all persons who withdraw or are capable of withdrawing groundwater in excess of three million gallons in any given month from a well or multiple wells under common ownership within a one-mile radius from any one existing or proposed well in South Carolina. These regulations do not change or modify previous Capacity Use Area designations.

Section D. Permits and Registrations Required. This section identifies the requirement to obtain construction permit(s) and a Groundwater Withdrawal Permit to withdraw groundwater in a designated capacity use area. This section adds text to identify the requirement to apply for a construction permit for new well construction or increasing the rated capacity of an existing well. This section adds text to identify the requirement to apply for and obtain a Groundwater Withdrawal Permit before becoming a groundwater withdrawer. This section adds text to identify the requirement to provide notice to the Department for well construction for groundwater withdrawal in the coastal plain, but outside of a designated capacity use area, and the requirement for groundwater withdrawers outside of the coastal plain to register their wells with the Department. The text from the existing *Regulations121-1/(121-2), Sections 121-1.3/(121.2.3), Permits Required,* was deleted and replaced by this section as the permitting threshold limit is now three million gallons per month (the existing regulation provides for one hundred thousand gallons per day) and deletes the requirements for groundwater withdrawers less than the one hundred thousand gallon per day threshold.

Section E. Permit Application. This section identifies the requirements and information necessary to complete an application for and be considered for a construction permit and a Groundwater Withdrawal Permit in a designated capacity use area. This section transfers and revises the text from the existing *Regulations121-1/(121-2)* as follows: *Sections 121-1.4.A/(121-2.4.A)*, identifying the requirements and information necessary to complete an application for and be considered for a construction permit and a Groundwater Withdrawal Permit; *Sections 121-1.4.D/(121-2.4.D),* identifying information considered necessary for applications including detailed contact information concerning the owner/operator and location information for the facility, wells to be considered (i.e. locations, as-built and/or proposed construction details), surveyed elevations, location for abandoned or unused wells owned by the applicant and a statement of beneficial use of the withdrawn groundwater; and *Sections 121-1.4.F/(121-2.4.F)*, identifying the additional requirements and information necessary to complete an application for and be considered for a well construction permit, including name of driller, date of proposed drilling, size and depth of hole, grouting requirements, and abandonment procedures. Existing text from *Regulation 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

This section deletes the text from the existing *Regulations121-1/(121-2)* as follows: *Sections 121-1.4.B/(121-2.4.B)*, the Department no longer requires a pre-construction conference for proposed groundwater withdrawal, as applications will be reviewed in accordance to the requirements in Section F of the proposed regulation; *Sections 121-1.4.C/(121-2.4.C)*, the notice that the permit application may be denied is reflected in review criteria

presented in Section F of the proposed regulation; *Sections 121-1.4.D.(5)/(121-2.4D.(5))*, the requirement for previous amounts of groundwater withdrawal is reflected in the added text for water management plans; *Sections 121-1.4.D.(7)/(121-2.4.D.(7))*, identification of the aquifer or aquifers from which groundwater is withdrawn will be determined by the Department based on the best available geologic or hydrogeologic information at the time of the application and is also reflected in review criteria presented in Section F of the proposed regulation; *Sections 121-1.4.D.(10)/(121-2.4.D.(10))*, the information for non-consumptive use is no longer required by the Department; and *Sections 121-1.4.E/(121-2.4.E)*, the requirements identified in this section for existing users are redundant, reflected in Section E and Section G of the proposed regulation.

This section adds text to clarify submission requirements, provide additional scientific data and information to the Department, and strengthen the regulation for groundwater protection including: as-built construction details for all wells included in the permit application, completed water well record forms and driller logs, geophysical and mechanical well logs, the requested groundwater withdrawal amount, a best management plan for water use and water conservation to protect water quality and reduce consumption, historical water use information (for new applicants in existing designated areas and applicants in newly designated areas), available alternate water sources (i.e. surface water, purchased supply, effluent), permitted effluent discharges, if any, minimum grouting requirements, eliminating cross connection of aquifers or zones of groundwater with documented water quality differences, and requirement to comply with S.C. R.61-44, South Carolina Individual Residential Well & Irrigation Permitting and S.C. R.61-71, South Carolina Well Standards.

Section F. Department Actions on Permit Applications, Modification, Revocation, and Denials. This section identifies the procedures the Department will follow in reviewing construction and groundwater withdrawal permit applications, denying or revoking groundwater withdrawal permits, determining groundwater withdrawal limits, and public noticing applications. This section transfers and revises the text from the existing *Regulations121-1/(121-2)* as follows: *Sections 121-1.5.A/(121-2.5.A)*, identifying considerations the Department will employ in review of groundwater withdrawal applications; *Sections 121-1.5.B/(121-2.5.B)*, identifying the conditions to be included in approved groundwater withdrawal permits; *Sections 121-1.6.C/(121-2.6.C)*, identifying the Department's authority to issue temporary groundwater withdrawal permits; *Sections 121-1.6.E/(121-2.6.E)*, identifying the use of groundwater only as identified in the permit; *Sections 121-1.6.G/(121-2.6.G)*, identifying the Department's authority to revoke a construction or groundwater withdrawal permit or deny a permit application; and *Sections 121-1.6.H/(121-2.6.H)*, identifying requirements necessary to transfer a groundwater withdrawal permit. Existing text from *Regulation 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

This section deletes the text from the existing *Regulations121-1/(121-2)* as follows: *Sections 121-1.5.C/(121-2.5.C)*, the consideration of prior investments is no longer a review criteria; *Sections 121-1.5.D/(121-2.5.D)*, the identified review period is no longer applicable; *Sections 121-1.6.A/(121-2.6.A)*, permits for non-consumptive use are no longer issued; *Sections 121-1.6.B./(121-2.6.B.)*, the wording for issuing a groundwater withdrawal permit is reflected in Section F.2. of the proposed regulation; *Sections 121-1.6.D.(7) and(8)/(121-2.6.D.(7) and (8))*, permit requirements for timing of groundwater withdrawals and installation of monitoring wells are reflected in Section L of the proposed regulation; and *Sections 121-1.6.F/(121-2.6.F)*, identifying requests for permit modification are reflected in Section G of the proposed regulation.

This section adds text to clarify review requirements and strengthen the regulation for groundwater protection as follows: identification of local or regional Groundwater Management Strategies; determination of reasonableness of need and use of groundwater; establishes time limits for temporary permits; establishes basis for revocation of temporary permits and contested case hearing requirements; and requirements for public notices.

Section G. Permit Modifications. This section is added to clarify the requirements for modifying existing groundwater withdrawal permits. The section identifies when a modification is required including: increased groundwater withdrawal, increasing the capacity of the well or wells, constructing a new well or wells, and for a transfer of ownership of the facility. The section also provides that an application to modify a groundwater withdrawal permit must comply with Section E of the proposed regulation.

Section H. Duration of Permits and Renewal. This section identifies the permit length and establishes a time frame for permit renewal. This section transfers and revises the text from the existing *Regulations121-1/(121-2)* as follows: *Sections 121-1.7.A/(121-2.7.A)*, establishes the permit length as 5 years, the length necessary to preserve and protect the groundwater resource, or the temporary period established in Section F of the proposed regulation; and *Sections 121-1.7.B/(121-2.7.B)*, identifies the requirement for renewing groundwater withdrawal permits at least ninety days prior to their expiration. Existing text from *Regulation 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

This section deletes the text from the existing *Regulations121-1/(121-2)* as follows: *Sections 121-1.7.H/(121-2.7.H)*, permit limits are now established in all capacity use areas.

Section I. Groundwater Use Reports. This section identifies the requirement for submission of groundwater withdrawal reports, information required to be submitted, and the acceptable methods for measuring groundwater withdrawals. This section transfers and revises the text from the existing *Regulations121-1/(121-2)* as follows: *Sections 121-1.8.A/(121-2.8.A)*, identifies when groundwater withdrawal reports are due and cause for permit revocation; and *Sections 121-1.8.D/(121-2.8.D)*, identifies the information required to be submitted in the groundwater withdrawal report. Existing text from *Regulations 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

This section deletes the text from the existing *Regulations121-1/(121-2)* as follows: *Sections 121-1.8.B and C/(121-2.8.B and C)*, all groundwater withdrawal reports are due on January 30th, irrespective of the date of the declaration of a capacity use area or effective permit date; *Sections 121-1.8.D.(6)/(121-2.8.D.(6))*, required measurements of water level are no longer required for water use reporting; *Sections 121-1.8.D.(7) /(121-2.8.D.(7))*, permits for non-consumptive use are no longer issued.

This section adds text to clarify review requirements and strengthen the regulation for groundwater protection including: accuracy of flow meters, conjunctive use of hour meters, electric meter, or written log, or any other method approved by the Department to measure groundwater withdrawals.

The text from the existing *Regulations121-1/(121-2), Sections 121-1.9/(121-2.9)*, *Dewatering Operations,* was deleted as the requirements for dewatering operations are reflected in Section J of the proposed regulation.

Section J. Exemptions. This section is added to identify the activities that are exempt from the proposed regulation including: emergency withdrawals of groundwater, non-consumptive uses, wildlife habitat management, and domestic uses. The section also identifies activities that are exempt from permitting requirements including: dewatering operations, Type I well construction, and Aquifer Storage and Recovery (ASR) wells, provided these wells obtain a valid Underground Injection Control Permit and the amount of water withdrawn does not exceed the amount of water injected.

Section K. Saltwater Intrusion. This section identifies the control measures the Department may implement or have implemented by groundwater withdrawers, considering the best available geologic and hydrogeologic information, to protect against or abate saltwater intrusion into freshwater aquifers within a designated capacity use area. This section transfers and revises the text from the existing *Regulations121-1/(121-2), Sections 121-1.10/(121-2.10), Saltwater Encroachment,* as the identified requirements are reasonable and appropriate to protect against or abate saltwater intrusion into freshwater aquifers within a designated capacity use area and clarify and

strengthen the proposed regulation for groundwater protection. Existing text from *Regulations 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

Section L. Unreasonable Adverse Effects on Other Water Users. This section identifies the control measures the Department may implement or have implemented by groundwater withdrawers, considering the best available geologic and hydrogeologic information, to protect against or abate unreasonable or potential adverse effects on other water users within a designated capacity use area. The section transfers and revises the text from the existing *Regulations121-1/(121-2), Sections 121-1.11/(121-2.11), Unreasonable Adverse Effects on Other Water Users,* as the identified requirements are reasonable and appropriate to protect against or abate unreasonable or potential unreasonable adverse effects on other water users within a designated capacity use area and clarify and strengthen the proposed regulation for groundwater protection. Existing text from *Regulations 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

This section deletes text from the previous regulations as follows: *Sections 121-1.11.B.(4)/(121-2.B.(4))*, requirements for well construction identified in the proposed regulation are as stringent as named in this section; and *Sections 121-1.11.B.(5) and (6)/(121-2.11.B.(5) and (6))*, information on nearby wells should be more readily available to the Department than to the applicant or permit holder.

Section M. Geologic and Hydrologic Information. This section identifies the geologic and hydrogeologic data and other information the Department may be required to obtain or have obtained to effectively evaluate, manage, and permit groundwater withdrawals in designated capacity use areas. This information, when required, is in addition to the information required by other sections of the proposed regulation. The section transfers and revises the text from the existing *Regulations121-1/(121-2), Sections 121-1.12 (121-2.12), Geologic and Hydrogeologic Information,* as the identified requirements are reasonable and appropriate to provide additional scientific information of the aquifer or aquifers of a designated capacity use area and clarify and strengthen the proposed regulation for groundwater protection. This section also incorporates the text from the existing *Regulations121-1/(121-2), Sections 121-1.13/(121-2.13), Test, Exploration, and Observation Wells,* as the identified requirements are reasonable and appropriate to provide additional scientific information of the aquifer or aquifers of a designated capacity use area and clarify and strengthen the proposed regulation for groundwater protection. Existing text from *Regulations 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

This section deletes text from the existing *Regulations121-1/(121-2), Sections 121-1.13.C.(1,2, and 4)/121-2.13.C.(1,2, and 4), Test, Exploration, and Observation Wells,* as the identified requirements for well locations, location of the property on which the wells are to be drilled, and construction materials for the well are reflected in requirements in Section E of the proposed regulation.

The section adds text to clarify review requirements and strengthen the regulation for groundwater protection including: submission of water well record forms, as-built construction details, surveyed elevation data, aquifer pump test or pumping test data, and proposed abandonment procedures.

Section N. Abandoned Wells. This section identifies the requirements for abandoning wells which are no longer utilized, having or potentially having unreasonable impacts on groundwater users or aquifers, or causing or potentially causing saltwater or other contamination on groundwater resources of a designated capacity use area. The section transfers and revises the text from the existing *Regulations121-1/(121-2), Sections 121-1.14/(121-2.14), Abandoned Wells,* as the identified requirements are reasonable and appropriate to provide effective abandonment of wells to protect the groundwater resources within a designated capacity use area and clarify and strengthen the proposed regulation for groundwater protection. Existing text from *Regulations 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

Section O. Wells Not Requiring Pumps. This section is added to prohibit wells that flow freely, without the use of a pump, at the ground surface at a rate greater than five thousand gallons per day. This flow, except where utilized for a specific and necessary use, constitutes a waste and is required to be controlled by mechanically restricting the flow.

Section P. Severability. This section is added to provide a severability clause to the proposed regulation.

The text from the existing *Regulations121-1/(121-2), Sections 121-1.15/(121-2.15), Enforcement,* has been deleted as enforcement is identified in the Groundwater Use and Reporting Act, S.C. Code Ann. Section 49-5-120 (1976 Code of Laws, as amended).

The text from the existing *Regulations121-1/(121-2), Sections 121-1.16/(121-2.16), Coordination,* has been deleted as the Department will coordinate the provisions of the proposed new regulation with other provisions of State law.

The text from the existing *Regulations121-1/(121-2), Sections 121-1.17/(121-2.17), Hearings, Appeals Procedures,* has been deleted as the requirement to file a contested case hearing is identified in the Groundwater Use and Reporting Act, S.C. Code Ann. Section 49-5-100 (1976 Code of Laws, as amended).

Instructions: (1) Repeal R.121-1, *Capacity Use Declaration, Waccamaw Area*
(2) Repeal R.121-2*, Capacity Use Declaration, Low Country Area*
(3) Add to Chapter 61 Regulations New Regulation 61-113, *Groundwater Use and Reporting*

Text:

R.61-113, Groundwater Use and Reporting

A. Purpose and Scope

Regulation 61-113, *et seq*. is promulgated pursuant to the Groundwater Use and Reporting Act, S.C. Code Ann. Sections 49-5-10 *et seq*. (1976 Code of Laws, as amended), and is known as the Groundwater Use and Reporting Regulation. The Department finds the standards and procedures prescribed are necessary to maintain, conserve and protect the groundwater resources of the State. Designation of capacity use areas shall be in accordance with the Groundwater Use and Reporting Act, S.C. Code Ann. Sections 49-5-60 (1976 Code of Laws, as amended).

B. Definitions

Unless the context otherwise requires, as used in this regulation:

1. “Abandoned well” means a well where the pump has been disconnected for reasons other than repair or replacement and whose use has been discontinued for a period of one year, or has been pronounced as abandoned by the owner or operator.

2. “Annular space” means the space between the well casing and the formation or the space between the outer casing and the inner casing in a well where two or more casings are used.

3. “Aquifer” means a geologic formation, group of these formations, or part of a formation that contains sufficient saturated permeable material to yield significant quantities of groundwater to wells and springs.

4. “Aquifer storage and recovery (ASR)” means a water well which allows potable water to be injected into a subsurface aquifer to be recovered by pumping at a later date.

5. “Artificial filter or gravel-pack” means specially graded filter material that is placed in the annular space to increase the effective diameter of the well and to prevent fine-grained sediments from entering the well.

6. “Artificial-filter or gravel-packed well” means a screened well that is constructed with artificially emplaced filter material in the annular space between the well screen(s) and borehole wall.

7. “Available precipitation” for water use calculations means the annual average precipitation less annual average evapotranspiration.

8. “Bedrock” means the competent parent solid rock formation (crystalline, metamorphic, limestone) underlying weathered rock, soil, and sediments.

9. “Best Management Plan” means a document that supports the design, installation, maintenance, and management of water conveyance systems and/or water withdrawal systems (water supply, commercial, industrial, agricultural, etc.), which promotes water conservation, and protects water quality.

10. “Board” means the Board of the S.C. Department of Health and Environmental Control.

11. “Capacity Use Area” means an area, designated by the Board, where excessive groundwater withdrawal presents potential adverse effects to the natural resource or poses a threat to public health, safety, or economic welfare or where conditions pose a significant threat to the long-term integrity of a groundwater source, including saltwater intrusion.

12. “Certified Well Driller” means any person duly and currently registered by the S.C. Department of Labor, Licensing, and Regulation to practice as a well driller in South Carolina.

13. “Coastal Plain” means:

a. All of Aiken, Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Clarendon, Colleton, Darlington, Dillon, Dorchester, Florence, Georgetown, Hampton, Horry, Jasper, Lee, Marion, Marlboro, Orangeburg, Sumter, and Williamsburg counties; and

b. Those portions of Chesterfield, Edgefield, Kershaw, Lexington, Richland, and Saluda counties east or southeast of the fall line as identified on the best available geologic map.

14. “Cone of depression” means the deviation of the hydraulic gradient from the normal path of groundwater flow (potentiometric surface) converging towards a pumping well or system of wells.

15. “Confining bed” means a strata of relatively impermeable material having distinctly lower hydraulic conductivity stratigraphically adjacent to one or more aquifers.

16. “Consumptive use” means any use of withdrawn groundwater other than a non-consumptive use, as defined in this section.

17. “Department” means the S.C. Department of Health and Environmental Control, including personnel thereof authorized and empowered by the Board to act on behalf of the Department or Board.

18. “Dewatering operation” means an operation that is withdrawing groundwater from an aquifer for the purpose of draining an excavation or preventing or retarding groundwater flow into an excavation. This operation includes, but is not limited to, mining, water and sewer line construction, and excavating for a building foundation.

19. “Domestic well” means an individual residential or irrigation well intended to supply water to a single family dwelling for routine household purposes, lawns, or gardens.

20. “Drawdown” means the difference in levels between the static water level in a well and the surface of the depressed water level that occurs when the well is pumped.

21. “Effluent” means water conveyed out of a wastewater treatment facility or other works used for the purpose of treating, stabilizing, or holding wastewater.

22. “Emergency withdrawal” means the withdrawal of groundwater, for a period not exceeding thirty calendar days, for the purpose of fire fighting, hazardous substance or waste spill response, or both, or other emergency withdrawal of groundwater as determined by the Department.

23. “Evapotranspiration” means a collective term that includes water discharged to the atmosphere as a result of evaporation from the soil and surface water bodies and as a result of plant transpiration.

24. “Flowing well” means a well releasing groundwater under such pressure that pumping is not necessary to bring it above the ground surface.

25. “Geophysical log” means a continuous record from an instrument that measures physical, chemical, electrical, or radioactive properties of subsurface geological formations or groundwater contained in these formations.

26. “Groundwater” means subsurface water found in the void spaces of geologic materials within the zone of saturation.

27. “Groundwater withdrawal permit” means a permit issued by the Department to groundwater withdrawers in designated Capacity Use Areas for the withdrawal of groundwater.

28. “Groundwater withdrawer” means a person withdrawing groundwater in excess of three million gallons during any one month from a single well or from multiple wells under common ownership within a one-mile radius from any one existing or proposed well.

29. “Industrial Well” means a well used for supplying water to an industrial or commercial operation or establishment whose ultimate use of the water is for processing, manufacturing, cooling, or similar industrial process.

30. “Irrigation requirement” means the total amount of water required at the field to produce a specific crop or maintain a healthy, functional turf or landscape.

31. “Irrigation well” includes, but is not limited to, a well used for supplying water for agricultural, commercial or aesthetic irrigation, and livestock operations.

32. “Limestone” means a sedimentary formation composed chiefly of calcium carbonate, consolidated or unconsolidated, which may be in the form of shell pieces or calcareous muds or sands.

33. “Marl” means calcareous clays. In South Carolina, the term is mostly applied to the Cooper Marl of Eocene Age, characterized by its dark greenish drab to grayish green color.

34. “Non-consumptive use” means the use of water from an aquifer that is returned to the aquifer from which it was withdrawn, at or near the point from which it was withdrawn, without substantial diminution in quantity or quality.

35. “Permit to construct” means a permit for well construction issued by the Department after consideration of, among other things, proposed well location, depth, rated capacity, withdrawal rate, and existing water withdrawals.

36. “Permittee” means a person having obtained a permit to construct or a groundwater withdrawal permit issued in accordance with these regulations.

37. “Person” means an individual, firm, partnership, association, public or private institution, municipality or political subdivision, local, state, or federal government agency, department, or instrumentality, public water system, or a private or public corporation organized under the laws of this State or any other state or county.

38. “Public water system” means a water system as defined in the State Safe Drinking Water Act, S.C. Code Ann. Section 44-55-20 (1976 Code of Laws, as amended).

39. “Pumping water level” means the distance, usually measured in feet, from the land surface or other permanent specified datum to the water surface (water level) in a well being pumped.

40. “Rated capacity” means the amount, in gallons per minute (gpm), of groundwater that is withdrawn or capable of being withdrawn from the completed well with the pump installed.

41. “Saltwater” means water containing concentrations of chloride and total dissolved solids in excess of standards as defined in S.C. R.61-58, State Primary Drinking Water Regulation.

42. “Saltwater intrusion” means the movement of saltwater into a freshwater aquifer.

43. “Surface water” means all water that is open to the atmosphere and subject to surface runoff, which includes lakes, streams, ponds, and reservoirs.

44. “Static water level” means the distance, usually measured in feet, from the land surface or other permanent specified datum to the water surface (water level) in a non-pumping well.

45. “Well” means an excavation that is cored, bored, drilled, jetted, dug hole, driven shaft, or otherwise constructed whose depth is greater than the largest surface dimension from which water is extracted or injected for the purpose of locating, testing, or withdrawing groundwater or for evaluating, testing, developing, draining, or recharging a groundwater reservoir or aquifer, or that may control, divert, or otherwise cause the movement of groundwater from or into an aquifer. Wells typically fall into one of the following types of construction:

a. Type I, open hole wells completed in crystalline bedrock aquifers;

b. Type II, screened, natural filter wells completed in unconsolidated aquifers;

c. Type III, screened, gravel-packed wells completed in unconsolidated aquifers;

d. Type IV, open hole wells completed in consolidated limestone aquifers; and

e. Type V, bored or dug well having large diameter.

46. “Well interference” means the instance where cones of depression from two or more wells overlap creating an additive drawdown in the affected area.

C. Applicability of Regulations

The standards contained herein apply to all persons who withdraw or are capable of withdrawing groundwater in excess of three million gallons in any given month from a well or multiple wells under common ownership within a one-mile radius from any one existing or proposed well in South Carolina. These regulations do not change or modify previous Capacity Use Area designations.

D. Permits and Registrations Required

1. Before a groundwater withdrawer or proposed groundwater withdrawer in a designated capacity use area can construct a new well or increase the rated capacity of an existing well, an application for a permit to construct shall be made to, and a permit to construct obtained from, the Department unless exempt pursuant to Section J.

2. Before a person may become a groundwater withdrawer in a designated capacity use area, an application for a groundwater withdrawal permit shall be made to, and a groundwater withdrawal permit obtained from, the Department unless exempt pursuant to Section J.

3. Before a groundwater withdrawer or proposed groundwater withdrawer outside a designated capacity use area in the Coastal Plain can construct a new well or increase the rated capacity of an existing well, a Notice of Intent shall be made to the Department at least thirty days prior to initiating the action, unless exempt pursuant to Section J.

4. All groundwater withdrawers in the State shall register their groundwater withdrawal and subsequent use with the Department.

5. A groundwater withdrawer outside a designated capacity use area shall register all new wells with the Department within thirty days after initiating use of the wells.

E. Permit Application

1. A person who is required to obtain a Groundwater Withdrawal Permit for an existing or proposed groundwater withdrawal or use under Section D shall submit a permit application on forms, furnished upon request, by the Department. The applicant shall furnish the Department, as determined by the Department, with sufficient documented evidence as described in Section E to aid in evaluating the effect of the existing or proposed groundwater withdrawal or use on the water resources of the Capacity Use Area.

2. Sufficient documented evidence shall include, but not be limited to, the following:

a. Name, address, and phone number of applicant who shall be the owner and his applicable agent, professional engineer or professional geologist, as appropriate;

b. Location of all existing and/or proposed wells, properly identified, for which the permit is requested, marked on the best available map, which may be a portion or copy of a United States Geological Survey 7 ½ (seven and one-half) minute quadrangle map, latest county highway map, or more detailed map or aerial photography, where required by the Department, provided the map or aerial photography submitted is clearly identified;

c. The latitude and longitude of all wells, obtained from the location map or by acceptable Global Positioning System (GPS) instrumentation;

d. As-built construction details of all wells to include, but not limited to, the following;

1. Name of driller;

2. Date of drilling;

3. Total depth of well (in feet);

4. Diameter of drilled hole;

5. Diameter, depth, and type of casing;

6. Depth (length) of grouting;

7. Depth and diameter of well screen(s), if used, and the material, type, and diameter of screen openings;

8. Type of pump, size (horsepower), and performance curves;

9. Static water level and pumping water level; and

10. Number of hours per day the well(s) is pumped.

e. A completed SCDHEC Water Well Record or other approved form and driller's logs, if available;

f. Copy of geophysical/mechanical logs, if available;

g. The ground elevation of the well(s), if available;

h. The location of all abandoned or unused well(s) owned or under the control of the applicant;

i. The proposed amount of groundwater withdrawal (in million gallons) per year;

j. A "Best Management Plan" for water use and water conservation designed to protect water quality and reduce water consumption to include, but not limited to, the following, as applicable;

1. Reasonable and appropriate conservation techniques, application processes, and alternate sources of water, including but not limited to, surface water(s) and/or availability of treated effluent, to minimize or eliminate groundwater sources;

2. Based on the current and/or proposed withdrawal rates, provide reasonable and appropriate documentation that the proposed water use is necessary to the anticipated needs of the applicant to include, but not limited to, the following;

a. Public Water Supply- by system, population served, anticipated growth, annual water use statistics (e.g., monthly average, peak summer/winter consumption);

b. Industrial Water Supply- by industry type, anticipated growth, and annual water use statistics (e.g., monthly average, peak summer/winter consumption);

c. Irrigation Water Supply- irrigated acreage, major crops (with irrigated acreage for each crop), water use by crop (per acre), calculated irrigation requirement (including available precipitation), critical period growth requirements, growing season, and nutrient and pest management strategy;

d. Golf Course Irrigation Water Supply- irrigated acreage (differentiating actual golf course areas and aesthetic landscaping), water use per acre, calculated irrigation requirement (including available precipitation), annual water use statistics (e.g., monthly average, peak summer/winter consumption), and nutrient and pest management strategy;

e. Aquaculture Water Supply- pond capacity (acre-feet), make-up water requirement, drain-fill periodicity, (e.g., monthly average, peak summer/winter consumption).

3. Maintenance schedule to preserve the integrity and efficient operation of water conveyance system(s); and

4. A statement specifying the beneficial use of the groundwater being withdrawn as necessary to meet the reasonable needs of the applicant.

k. Historical water use information;

l. Availability of alternate water sources;

m. Any present or anticipated unreasonable adverse or potential adverse effects on other water uses or users, including, but not limited to, adverse effects on public use; and

n. Permitted effluent discharges in accordance with a valid NPDES Discharge Permit.

3. In addition to the information required under Section E.2. above, applicants proposing new well construction or increasing the rated capacity of an existing well or wells shall provide proposed well construction details and technical specifications or pump specifications, including, but not limited to, the following:

a. Name of driller, if known;

b. Date of drilling, if known;

c. Total depth of well (in feet);

d. Diameter of drilled hole;

e. Diameter, depth, and type of casing;

f. Depth of grouting – the minimum length of grout to protect the aquifer utilized, unless demonstrated that an alternate grout length is as protective, shall be;

1. Type II and III, the first confining bed (clay, marl, etc.) immediately above the aquifer being utilized or to within ten (10) feet of the uppermost screen when no confining bed is encountered;

2. Type IV, twenty (20) feet into firm limestone or firm marl, whichever is less.

g. Depth and diameter of the open hole or well screen(s), if used, and the material, type, and diameter of screen openings. The open hole or screen setting(s) shall not connect aquifers or zones with documented differences in water quality or result in or create the potential for contamination of any aquifer or zone or cause depletion or significant loss of head in any aquifer or zone;

h. Type of pump, size (horsepower), and performance curves;

i. Deep well airline of steel, iron, or heavy gauge copper material, or an access port not less than one-half inch in diameter, with screw cap for water-level measurements; and

j. Filling, plugging, and sealing procedures for any well(s) that are to be abandoned in accordance with Section N.

4. In addition to the information and standards required under Section E.2 and Section E.3 above, applicants proposing new well construction must comply with requirements established in S.C. R.61-44, South Carolina Individual Residential Well & Irrigation Permitting, and, at a minimum, comply with the S.C. R.61-71, South Carolina Well Standards, as appropriate.

F. Department Actions on Permit Applications, Modifications, Revocation and Denials

1. In considering all permit applications, modifications, and revocations, the Department shall consider, but not be limited to, the following:

a. The number of persons using an aquifer and the object, extent, and necessity of their respective withdrawals or uses;

b. The nature and size of the aquifer;

c. The physical and chemical nature of any impairment of the aquifer adversely affecting its availability or viability for other water uses, including public use;

d. The severity and duration of such impairment under foreseeable conditions;

e. The injury to public health, safety, or welfare which may result if such impairment were not prevented or abated;

f. The kinds of businesses or activities to which the various uses are related;

g. The relative importance and necessity of uses claimed by permit holders and permit applicants, or of the water use of the area, and the extent of injury or detriment caused or reasonably expected to be caused to other water uses, including public use;

h. Diversion from or reduction of flows in surface water or other aquifers;

i. Information provided by the applicant in accordance with Section E;

j. An approved local or regional Groundwater Management Strategy; and

k. Any other relevant factors, such as, but not limited to, public comments and best available geologic and hydrologic information on the aquifer or aquifers of the area.

2. In each case where an applicant for a Groundwater Withdrawal Permit demonstrates to the Department's satisfaction that the groundwater withdrawal is reasonable and necessary to meet the applicant's requirements and where there are no unreasonable adverse effects on other water users, including public use, and including potential as well as current use, a Groundwater Withdrawal Permit may be issued by the Department and contain, but not be limited to, the following conditions:

a. Amount of groundwater to be withdrawn or used;

b. Well(s) to be utilized;

c. Aquifer(s) to be utilized;

d. Well spacing to minimize well interference; and

e. Monitoring well(s) to be installed for monitoring groundwater levels and water quality.

3. Groundwater withdrawn under any permit shall be used only for the purposes set forth in the permit.

4. The Department may grant a temporary Groundwater Withdrawal Permit for up to one hundred eighty days or until a final decision is made on the application if an imminent hazard to public health exists or if an applicant demonstrates that physical or financial damage has occurred, or will occur, if a temporary permit is not granted. The issuance of a temporary permit does not guarantee the issuance of a final Groundwater Withdrawal Permit.

5. The Department may:

a. Revoke a construction permit or a Groundwater Withdrawal Permit if it determines information in the permit application is false or misleading, the permittee fails to comply with the conditions set forth in the permit, or when there is found to be an unreasonable adverse effect upon the water uses or water users in the area, including public use, and including potential as well as current use, based upon considerations set forth in Section F;

b. Deny a permit if the application therefore or the effect of the water use proposed or described therein upon the water resources of the area is found to be contrary to the public interest or general welfare, based upon considerations in Section F; and

c. Revoke a temporary Groundwater Withdrawal Permit if the permittee fails to comply with the conditions of the temporary permit or provide timely response to requests for actions for information made pursuant to the application review.

6. The Department's denial or revocation of any permit shall be final unless a request for a contested case hearing is filed in accordance with the Administrative Procedures Act and the Rules of the Administrative Law Court.

7 A Groundwater Withdrawal Permit shall not be transferred to any other person or user except by modification of the permit in accordance with Section G.

8. Public notices shall be required for an:

a. Initial application for a Groundwater Withdrawal Permit in an existing capacity use area;

b. Application to modify an existing Groundwater Withdrawal Permit where an increase in the permitted withdrawal limit is requested;

c. Application to modify an existing Groundwater Withdrawal Permit where construction of a new well or wells, with concurrent increase in the permitted withdrawal limit, is requested; and

d. Application to renew an existing Groundwater Withdrawal Permit, where no increase in the permitted withdrawal limit is requested, only if the Department determines there is sufficient public interest on the proposed groundwater withdrawal.

9. Wording for public notices will be provided to the applicant by the Department and shall contain, but not be limited to, the following:

a. Applicant's name and mailing address;

b. Location of the well or wells;

c. Aquifers to be utilized;

d. Proposed withdrawal limit(s); and

e. Notice of thirty day comment period.

10. The applicant will publish the public notice, for one day, in a newspaper of general circulation in the area of the proposed withdrawal.

11. The applicant will provide an affidavit of publication from the newspaper to the Department within fifteen days of initial publication and a copy of the published notice.

12. The Department will notify currently permitted groundwater withdrawers of newly proposed groundwater withdrawal within a one-mile radius of the proposed well location. This notification will be provided at least thirty days prior to issuance of the final permit.

G. Permit Modifications

1. An application to modify a Groundwater Withdrawal Permit shall be required when:

a. The permittee desires to increase the permitted groundwater withdrawal limit;

b. The permittee desires to increase the rated capacity of a well or wells;

c. The permittee desires to construct a new well, unless exempt pursuant to Section J; or

d. There is a proposed change or transfer of ownership of the permitted entity.

2. Applications to modify a Groundwater Withdrawal Permit shall be made in compliance with the provisions in Section E. The Department may modify a permit after consideration of factors pursuant to Section F. If the Department determines that no modification will be granted, this determination shall be final unless a request for a contested case hearing is filed in accordance with the Administrative Procedures Act and the Rules of the Administrative Law Court.

H. Duration of Permits and Renewal

1. No permit shall be issued for a period longer than the following:

a. Five (5) years;

b. The period found by the Department necessary to conserve and protect the resource, prevent waste, and to provide and maintain conditions which are conducive to the development and use of water resources; or

c. The temporary period as specified in Section F.

2. A Groundwater Withdrawal Permit shall be renewed by filing a completed application in compliance with Section E at least ninety days prior to its expiration. A Groundwater Withdrawal Permit that expires, with a completed application in compliance with Section E received by the Department at least ninety days prior to the expiration date, will continue to be valid until a decision is reached on the permit renewal application.

I. Groundwater Use Reports

1. Every permitted and registered groundwater withdrawer in the State shall annually, before January 30th, file with the Department a water use report on forms furnished by the Department or approved by the Department of the quantities of groundwater withdrawn. Failure to provide a groundwater use report is grounds for revocation of a permit.

2. Water use reports shall include, but not be limited to, the following:

a. Name of permit holder and permit number;

b. Use of the groundwater being withdrawn;

c. Source of groundwater, identifying the well or wells utilized;

d. Monthly quantity of water withdrawn from each well; and

e. How the withdrawal was measured.

3. The quantity of groundwater withdrawn must be determined by one of the following:

a. Flow meters accurate to within ten percent of calibration;

b. Rated capacity of the pump in conjunction with the use of an hour meter, electric meter, or log;

c. The rated capacity of a cooling system;

d. Any standard or method employed by the United States Geological Survey in determining such quantities; or

e. Any other method approved by the Department, which will provide reliable groundwater withdrawal data.

4. The groundwater withdrawer is not required to submit the groundwater withdrawal report required by Section I if the monthly quantity withdrawn from each well is being reported to the Department as a result of another environmental program reporting requirement, permit condition, or consent agreement.

J. Exemptions

1. The following are exempt from this regulation:

a. Emergency withdrawal of groundwater;

b. Any person withdrawing groundwater for non-consumptive uses;

c. A person withdrawing groundwater for the sole purpose of wildlife habitat management; or

d. A person withdrawing groundwater at a single-family residence or household for noncommercial use.

2. The following are exempt from the permitting of Section D and public notification requirements of Section F:

a. Dewatering operations at mines;

b. All other dewatering operations;

c. Type I wells installed into crystalline bedrock in a designated capacity use area; or

d. Groundwater withdrawer constructing a new well to replace an existing well with no increase in capacity or withdrawal amount.

3. Aquifer Storage and Recovery (ASR) wells are exempt from the requirements of this regulation if:

a. A permit pursuant to S.C. R.61-87, Underground Injection Control Regulations, is obtained from the Department; and

b. The amount of water withdrawn does not exceed the amount of water injected.

K. Saltwater Intrusion

1. To protect against or abate saltwater intrusion, the Department shall consider the best available information on the geologic and hydrologic characteristics of the aquifer or aquifers and the groundwater withdrawals of the area, and shall require water users to take such action as the Department deems necessary for its control.

2. Types of control measures the Department may require applicants, permit holders, and groundwater withdrawers to take may include, but not be limited to, the following:

a. Pumping arrangements to reduce groundwater withdrawal in areas of concentrated pumping;

b. Location of wells to eliminate or reduce groundwater withdrawals near zones of saltwater intrusion;

c. Requirement of selective withdrawal from other available freshwater aquifers than those currently used;

d. Selective curtailment or reduction of groundwater withdrawals where it is found to be in the public interest or general welfare or to protect the water resource;

e. Conjunctive use of freshwater or saltwater aquifers, or waters of less desirable quality where water quality of a specific character is not essential;

f. Construction and use of observation or monitor wells, drilled into freshwater aquifers between areas of groundwater withdrawal (or proposed areas of groundwater withdrawal) and sources of saltwater;

g. Construction and use of wells, drilled into areas of intrusion, to intercept saltwater moving towards the center of excessive groundwater withdrawal;

h. Construction and use of wells, drilled into the saltwater aquifer, to relieve hydraulic pressure causing saltwater intrusion in the aquifer;

i. Abandonment of wells, in accordance with Section N, that have penetrated saltwater zones or zones of undesirable water quality and are determined by the Department to be causing contamination of freshwater aquifers;

j. Prohibiting the hydraulic connection of saltwater and freshwater aquifers that could result in deterioration of water quality in a freshwater aquifer(s);

k. Abandonment of wells, not covered under Section K.2.i., in accordance with Section N; and

l. Such other necessary and appropriate control or abatement techniques as are technically feasible and have proven to be successful in other areas.

L. Unreasonable Adverse Effects on Other Water Users

1. To protect against or abate unreasonable adverse or potential unreasonable adverse effects on other water users within a designated capacity use area, including but not limited to adverse effects on public use, the Department shall consider the best available information on the geologic and hydrologic characteristics of the aquifer or aquifers and the groundwater withdrawals of the area, and shall require groundwater users to take such action as the Department deems necessary and appropriate for its control.

2. Types of control measures which the Department may require applicants, permit holders, and groundwater withdrawers to take may include, but not be limited to, the following:

a. Requirement of selective withdrawal from other available freshwater aquifers than those currently used;

b. Pumping arrangements to reduce groundwater withdrawal in areas of concentrated pumping;

c. Selective curtailment or reduction of groundwater withdrawals where it is found to be in the public interest or general welfare or to protect the water resource;

d. Conjunctive use of aquifers, or waters of less desirable quality where water quality of a specific character is not essential;

e. Construction and use of observation or monitor wells;

f. Abandonment of wells, in accordance with Section N, that have penetrated zones of undesirable water quality where such wells are determined by the Department to be causing contamination of freshwater aquifers;

g. Prohibiting the hydraulic connection of aquifers that could result in deterioration of water quality in a freshwater aquifer(s);

h. Abandonment of wells, not covered under Section L.2.f., in accordance with Section N below;

i. Require the applicants, permit holders, and groundwater withdrawers to cooperate with the Department and other groundwater users in the affected area, in determining and implementing reasonable and practical methods to conserve and protect the water resources and to avoid or minimize adverse effects of the quantity and quality of water available to persons whose water supply has been materially reduced or impaired as a result of groundwater withdrawals; and

j. Such other necessary and appropriate control or abatement techniques as are technically feasible and have proven to be successful in other areas.

M. Hydrologic and Geologic Information

1. The Department may gather and/or require the submission of hydrologic and geologic information on the aquifer or aquifers in and adjacent to a designated capacity use area for the purpose of evaluating and managing the groundwater resource.

2. Required information may include, but not be limited to, the following:

a. Surface and/or subsurface geologic mapping;

b. Areas of groundwater recharge and amount of recharge;

c. Drilled well cuttings and/or drilled well cores;

d. Geophysical logs;

e. Pumping test to establish hydraulic characteristics of an aquifer(s);

f. Static and pumping water levels of wells;

g. Groundwater availability and flow;

h. Water quality analyses;

i. Amount of groundwater withdrawal from the aquifer(s); and

j. Drill test, monitor or observation wells.

3. All persons who are required to obtain a Groundwater Withdrawal Permit under this regulation shall furnish the Department such additional geologic and hydrologic information and well construction data as the Department requires which may include, but not be limited to, the following:

a. Collection of drill cuttings at ten foot intervals and/or at lithological changes of the stratigraphy, showing depth, in feet, below ground surface, at which the cuttings were collected;

b. Geophysical logs, where the Department finds additional information on the geology, hydrology or well construction is required;

c. Data on all water bearing zones encountered;

d. Drill stem or packer tests;

e. Pumping test data;

f. Water quality analyses; and

g. Completed DHEC Water Well Record or other approved reporting form.

4. Any person drilling a test or exploration well for the purpose of obtaining geologic and/or hydrologic information on water or mineral resources in a designated capacity use area shall apply for a permit to construct in accordance with Section E from the Department to drill such well and shall submit to the Department the information identified in this Section; provided that no person shall be required to disclose any secret formula, process or methods used in any manufacturing operation or any confidential information concerning business

activities carried on by him or under his supervision; provided, however, if the information is necessary for the Department to make a determination on a permit application or modification, the Department may deny such permit on the grounds that the applicant failed to provide the necessary information. In addition to the information required under Section E the following information shall be submitted on forms provided by or approved by the Department prior to the drilling of a test, exploration, or observation well:

a. Name and address of applicant who shall be the owner and his applicable agent, professional engineer, or professional geologist, as appropriate;

b. Intended purpose of the well(s);

c. Name and address of owner(s) of property on which the proposed test, exploration, or observation well(s) is to be located;

d. Proposed location(s) of all test, exploration, or observation well(s), identified by number, for which the permit is requested, marked on the best available map;

e. Proposed depth(s) of all test, exploration, or observation well(s), the diameter(s), and proposed method of drilling and construction;

f. Type of casing, screen, and other materials to be used in construction of the well(s);

g. Type of borehole logs, including geophysical logs, to be run on the well(s); and

h. Proposed method of abandonment.

5. Upon completion of the test, exploration, or observation well(s) the following information shall be submitted to the Department:

a. A completed SCDHEC Water Well Record or other approved form;

b. As-built construction diagram of the completed well, showing hole sizes and depths, casing sizes, and screen (if applicable), grout location, and construction materials;

c. Elevation data;

d. Aquifer test or pumping test data;

e. Driller's log, geologist’s or engineer’s log;

f. Geophysical logs; and

g. Method of abandonment (if applicable).

6. All test, exploratory, and observation well(s) drilled and not developed for groundwater withdrawal shall be filled, plugged, and sealed in accordance with Section N.

7. Wells without pumps which are declared not to be abandoned shall be fitted with a secure cap when they are not being used as observation wells or for other purposes.

N. Abandoned Wells

1. Where the Department finds any existing well(s) of groundwater withdrawers or any test, exploratory, or observation well(s) have been abandoned and are no longer put to beneficial use and which are deemed by the Department to have an unreasonable adverse or potential unreasonable adverse effect on other water users or uses, or which result, or may result, in physical or chemical impairment of the aquifer(s), shall require the well owner to fill, plug, and seal the well in a manner acceptable to and approved by the Department.

2. Where the Department finds an abandoned well to be a contributor, or may in the future become a contributor to saltwater intrusion or contamination or to be having an unreasonable adverse impact on groundwater users or freshwater aquifers, shall require the well owner to fill, plug, and seal the well in a manner acceptable to and approved by the Department.

3. Upon completion of abandonment the well owner or his agent shall submit a completed SCDHEC Water Well Record or other approved form to the Department.

O. Wells Not Requiring Pumps

Wells that are flowing by releasing groundwater under such pressure that pumping is not necessary to bring it above the ground surface at a rate of greater than five thousand gallons a day at any time are an unreasonable use of groundwater constituting waste and are prohibited, except that the water from these wells may be utilized to the extent actually necessary for a specific use. These wells must be fitted with a mechanism to restrict the flow of water if the flow is in excess of that necessary for the specific use. The Department may promulgate additional regulations to govern use of these wells in this State.

P. Severability.

In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect, as if such invalid portions were not originally a part of these regulations.

Fiscal Impact Statement:

No costs to the State or significant cost to its political subdivisions as a whole should be incurred by these amendments.

Statement of Need and Reasonableness:

This statement of need and reasonableness has been determined from staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: (1) Repeal of Regulations 121-1, *Capacity Use Declaration, Waccamaw Area* and 121-2, *Capacity Use Declaration, Low Country Area*. (2) Addition of New Chapter 61 Regulation 61-113, *Groundwater Use and Reporting*.

Purpose: The Department is simultaneously repealing Regulations 121-1 and 121-2 and replacing them with a new groundwater use and reporting regulation that addresses these regulations and other groundwater withdrawals in all designated capacity use areas.

Legal Authority: S.C. Code Section 49-5-10 *et seq.*

Plan for implementing: The regulation will take effect upon approval by the Board of Health and Environmental Control, the General Assembly and publication in the State Register. Existing staff will

incorporate the new regulation in the review process for all permit applications received after the effective date of the regulations.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFIT:

The need for this regulation is stated in Chapter 5, the Groundwater Use and Reporting Act, where the General Assembly declares that the general welfare and public interest require that the groundwater resources of the State be put to beneficial use to the fullest extent to which they are capable, subject to reasonable regulation, in order to conserve and protect these resources, prevent waste, and to provide and maintain conditions which are conducive to the development and use of water resources.

Existing Regulations 121-1 and 121-2 were developed as specific regulations in their respective areas and are not applicable to other designated Capacity Use Areas.

Two additional areas received Capacity Use designation, Trident in 2002 (three counties) and Pee Dee in 2004 (six counties). Currently these designated areas do not fall under the existing regulations.

New Regulation 61-113, *Groundwater Use and Reporting* will standardize procedures, enabling the safe and sustainable development of groundwater resources, provide measures to abate or control saltwater intrusion, and for measures to prevent or mitigate unreasonable adverse effects on water users or water uses in all designated Capacity Use Areas.

DETERMINATION OF COSTS AND BENEFITS:

No additional cost will be incurred by the State or its political subdivisions by implementation of the regulation; therefore no additional state funding is being requested. Existing staff and resources will be utilized to implement the proposed regulation. It is anticipated that the proposed regulation will create minimal, if any, additional cost to the regulated community based on the fact that the requirements are consistent with Chapter 5 and with the existing review procedures utilized by the Department.

UNCERTAINTIES OF ESTIMATES:

Minimal

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Implementation of the proposed regulation will promote protection of the environment and public health by ensuring that safe, sustainable quantities of groundwater are available to current and future groundwater users. Implementation of the proposed regulation will emphasize reasonable use of the resource and develop conservation practices to provide and maintain conditions that are conducive to the long-term development and use of groundwater resources.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

Failure to implement the regulation may allow large volume groundwater users to withdraw excessive quantities of water, without regard to reasonableness of need or use, effectively reducing an aquifer's capability to provide water for all competing needs. Reduction of available groundwater capacity may make it cost prohibitive for smaller quantity withdrawers, including private citizens, to develop groundwater sources to meet their needs by necessitating costlier development of deeper groundwater sources or development of groundwater sources of lesser quality. This effect would be inconsistent with the stated desires of the Legislature.

Statement of Rationale pursuant to S.C. Code Section 1-23-120:

Existing Regulations 121-1 and 121-2 provide procedures for obtaining a groundwater withdrawal permit only in the Waccamaw and Low Country Capacity Use Areas, respectfully. Recently designated Trident and Pee Dee Capacity Use Areas are not covered by the existing regulations. The new Regulation 61-113, *Groundwater Use and Reporting* will standardize and establish procedures for obtaining a permit to withdraw, obtain, or utilize groundwater and construct, maintain, and operate groundwater withdrawal wells within all designated Capacity Use Areas, as they are declared. No new scientific studies or information precipitated the development of the new regulation. The experience and professional judgment of the Department's staff were relied upon in developing the regulation.

Document No. 3025
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Section 48-1-10 et seq.

R.61-69, Classified Waters

Synopsis:

This amendment of R.61-69 will reclassify those waters located within the boundary of the Congaree National Park to Outstanding Resource Waters (ORWs) and a portion of Cedar Creek located within the boundary of the park as an Outstanding National Resource Water (ONRW). Congaree National Park protects the largest and last significant tract of old-growth bottomland hardwood forest in the United States and has been designated as an International Biosphere Reserve, a Globally Important Bird Area, a National Natural Landmark, a Congressionally Designated Wilderness Area, and nominated as a Wetlands of International Importance. The waters within the park provide for and support this valuable floodplain forest ecosystem.

Discussion of Revisions:

Amend the language contained in R.61-69 to reclassify specific waters located within the boundary of the Congaree National Park to Outstanding Resource Waters (ORWs) and a portion of Cedar Creek located within the boundary of the park as an Outstanding National Resource Water (ONRW) in order to protect and maintain these exceptional water resources. The Department will maintain the Freshwater (FW) classification to those portions of waters outside the park boundary that connect at the boundary of the park with those waters inside the park and also maintain the Congaree River, which borders the park, as FW. The Department will add the Outstanding National Resource Water to the abbreviations table at the beginning of the regulation.

Instructions: Amend R.61-69 pursuant to each instruction provided with the text of the amendments below.

At R.61-69.E., in the abbreviations table, add the following text to read.

Class Abbreviations Used in Regulation 61-69

Outstanding National Resource Waters ONRW

In R.61-69, add the following text to read.

Waterbody Name	**Counties**	**Class**	**Waterbody Description and (Site Specific Standard)**
BIG LAKE	Rlnd	ORW	The entire lake within the boundary of the Congaree National Park
DRY BRANCH	Rlnd	FW	That portion of the stream outside the boundary of the Congaree National Park
DRY BRANCH	Rlnd	ORW	That portion of the stream beginning at the boundary of the Congaree National Park to Weston Lake
MCKENZIE CREEK	Rlnd	FW	That portion of the stream outside the boundary of the Congaree National Park
MCKENZIE CREEK	Rlnd	ORW	That portion of the stream beginning at the boundary of the Congaree National Park to its confluence with Toms Creek
MYERS CREEK	Rlnd	FW	That portion of the stream outside the boundary of the Congaree National Park
MYERS CREEK	Rlnd	ORW	That portion of the stream beginning at the boundary of the Congaree National Park to its confluence with Cedar Creek
OLD DEAD RIVER	Rlnd	ORW	The entire stream within the boundary of the Congaree National Park
RUNNING LAKE CREEK	Rlnd	FW	That portion of the stream outside the boundary of the Congaree National Park
RUNNING LAKE CREEK	Rlnd	ORW	That portion of the stream beginning at the boundary of the Congaree National Park to its confluence with Toms Creek
TOMS CREEK	Rlnd	FW	That portion of the stream outside the boundary of the Congaree National Park
TOMS CREEK	Rlnd	ORW	That portion of the stream beginning at the boundary of the Congaree National Park to its confluence with Cedar Creek
UNNAMED CREEKS,	Rlnd	FW	Any portions tributary to waters unnamed or named

PONDS, OR LAKES			located within the boundary of the Congaree National Park to the boundary of the Congaree National Park
UNNAMED CREEKS, PONDS, OR LAKES	Rlnd	ORW	All portions of waters and waters located wholly within the boundary of the Congaree National Park
WESTON LAKE	Rlnd	ORW	The entire lake within the boundary of the Congaree National Park
WISE LAKE	Rlnd	ORW	The entire lake within the boundary of the Congaree National Park

In R.61-69, amend the following text to read.

Waterbody Name	Counties	Class	Waterbody Description and (Site Specific Standard)
CEDAR CREEK	Rlnd	FW	That portion of the stream outside the boundary of the Congaree National Park
CEDAR CREEK	Rlnd	ORW	That portion of the stream beginning at the boundary of the Congaree National Park to Wise Lake
CEDAR CREEK	Rlnd	ONRW	That portion of the stream beginning at Wise Lake to its confluence with the Congaree River

Fiscal Impact Statement:

No costs to the State or significant cost to its political subdivisions as a whole should be incurred by these amendments. See Statement of Need and Reasonableness below.

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: Amendment of Regulation 61-69, Classified Waters.

Purpose: Amendment of R.61-69 will reclassify specific waters located within the boundary of Congaree National Park to Outstanding Resource Waters (ORWs) and a portion of Cedar Creek located within the boundary of the Park to Outstanding National Resource Water (ONRW) of the State.

Legal Authority: S.C. Code Sections 48-1-40, 48-1-60, and 48-1-80, implementing the Clean Water Act (CWA).

Plan for Implementation: The amendment would be incorporated within R.61-69 upon approval of the General Assembly and publication in the *State Register*. The amendment will be implemented in the same manner in which the present regulation is implemented.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFIT:

The Congaree National Park is unique in South Carolina as its only national park. The Congaree National Park protects the largest and last significant tract of old-growth bottomland hardwood forest in the United States and has been designated as an International Biosphere Reserve, a Globally Important Bird Area, a National Natural Landmark, a Congressionally Designated Wilderness Area, and nominated as a Wetlands of International Importance. The waters within the park provide for and sustain this valuable floodplain forest ecosystem. The maintenance of the existing water quality and its future protection are essential and this reclassification to ORW and ONRW is appropriate to achieve that goal.

DETERMINATION OF COSTS AND BENEFITS: Existing staff and resources will be utilized to implement this amendment to the regulation. No additional cost will be incurred by the State if the revisions are implemented and, therefore, no additional State funding is being requested.

In reviewing the potential for significant economic impact of the proposed amendment, the Department evaluated situations in which costs would most likely be incurred by the regulated community. Since no existing point source discharges are currently located within the area of the proposed reclassifications, the only effect would be to ensure that existing upstream discharges would protect the downstream uses. The Department found that the overall impact to the State's political subdivisions or the regulated community as a whole was not likely to be significant in that the existing water quality standards would ensure protection of the downstream uses and the existing permitted conditions should still be applicable.

UNCERTAINTIES OF ESTIMATES: Minimal.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: Implementation of this amendment will not compromise the protection of the environment or the health and safety of the citizenry of the State. The amendment will promote and protect a significant water resource of the State and ensure its protection for future generations by restricting any future point source discharges in the waters reclassed to ORW and additionally limit nonpoint source activities in that portion of Cedar Creek reclassed to ONRW, thereby ensuring the maintenance of the existing water quality that now provides for the exceptional recreational and environmental resources of the Congaree National Park.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: Failure by the Department to reclassify these waters could ultimately lead to future additional anthropogenic sources of pollution within these waters and a general degrading of the current water quality conditions. It is anticipated that the additional layers of protection provided by the new classification will prevent discharges and any potential adverse contamination of these waters of the State.

Statement of Rationale:

The statement of rationale is submitted pursuant to S.C. Code Section 1-23-120(B):

The waters included in this proposed reclassification provide and sustain a nationally significant forest refuge that contains the last significant tract of old-growth bottomland hardwood in the United States and exceptional woodland wildlife. This is the only National Park in the State of South Carolina and the waters that support this unique and valuable resource are also extremely valuable. In accordance with the goals of the CWA and the South Carolina Pollution Control Act (PCA), it is incumbent upon the State to protect its valuable water resources for current and future generations. The Department has the duty to find and preserve the State's exceptional water resources and this amendment will ensure that these waters are protected and maintained.

Document No. 3000
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: S.C. Code Ann. Section 44-61-30 (Supp.2004) and Section 44-78-65 (2002).

R.61-7. Emergency Medical Services

Synopsis:

This amendment shall: bring the regulations up to date with current statutes and practices; update and expand the definitions; include enforcement action procedures with classification of violations and guidelines for monetary penalties; update licensing procedures and requirements; update the standards for ambulance permits; update equipment lists for both ground and air ambulances; update sections related to training and certification of EMTs; add a section which provides for patient records; and revise style, language and grammar for clarity, readability and consistency. See Discussion below and Statement of Need and Reasonableness and Rationale herein.

Discussion of Revisions:

Table of Contents

Section I

Section heading was renumbered from "I" to "100" for clarity and readability. Section title was amended for consistency with other regulations.

New Subsection 101

Subsection heading was added for codification purposes and clarity.

Section II

Section heading was renumbered from "II" to "200" for clarity and readability.

New Subsection 201

Subsection heading was added for codification purposes and clarity.

New Section 300

This entire section was added to address enforcement of regulation issues for consistency with other DHEC regulations. Subsection headings added for sections 301 through 304.

Former Section III

Section heading renumbered from "III" to "400" to accommodate insertion of new Section 300 as well as for clarity and readability. All subsections were renumbered to reflect the new section number.

New Subsections 402, 403, 404, 405, 406, 407, 409:

Notation added to each of the above subsection headings to delineate violation classification.

Old Subsection 304

Deleted heading as this category no longer exists.

Former Section IV

Section heading renumbered from "IV" to "500" to accommodate for insertion of new Section 300 as well as for clarity and readability. Second portion of heading deleted and moved to subsection for codification and clarity. Notation added to delineate violation classification.

New Subsection 501

Subsection heading was added for codification purposes and clarity.

Former Section V

Section heading renumbered from "V" to "600" to accommodate for insertion of new Section 300 as well as for clarity and readability. All subsections were renumbered to reflect the new Section number.

Former Section VI.

Section heading renumbered from "VI" to "700" to accommodate for insertion of new Section 300 as well as for clarity and readability. Notation added to delineate violation classification. All subsections were renumbered to reflect the new Section number.

Former Section VII.

Section heading renumbered from “VII” to “800” to accommodate for insertion of new Section 300 as well as for clarity and readability. All subsections were renumbered to reflect the new Section number.

New Subsections 804, 805, 809, 810, 811, 812, 813:

Notations added to each of the above subsection headings to delineate violation classification.

Former Section VIII

Section heading renumbered from “VIII” to “900” to accommodate for insertion of new Section 300 as well as for clarity and readability. Deleted archaic term from section title. All subsections were renumbered to reflect the new section number.

New Subsections 901, 902, 907:

Notations added to each of the above subsection headings to delineate violation classification.

New Subsection 907:

Deleted redundant term in title.

Former Section IX

Section heading renumbered from “IX” to “1000” to accommodate insertion of new Section 300 as well as for clarity and readability. Notation added to delineate violation classification.

Former Section X

Section heading renumbered from “X” to 1100 to accommodate insertion of new Section 300 as well as for clarity and readability. Notation added to delineate violation classification.

Former Section XI

Section heading renumbered from “XI” to “1200” to accommodate insertion of the new Section 300 as well as for clarity and readability. All subsections were renumbered to reflect the new Section number and notations added to each to delineate violation classification.

New Section 1300

Entire section added to address patient care reports and to be consistent with other DHEC regulations. Subsection headings added for 1301 through 1303.

Former Section XII

Section heading renumbered from “XII” to “1400” to accommodate insertion of new Sections 300 and 1300 as well as for clarity and readability. All subsections were renumbered to reflect the new Section number.

New Subsections 1405, 1406, 1407, 1408:

Notations added to each of the above subsection headings to delineate violation classification.

New Section 1500

This section was added to address severability to be consistent with other DHEC regulations. Subsection heading added for 1501.

New Section 1600

This section was added to address conditions which are not specifically outlined in these regulations to be consistent with other DHEC regulations. Subsection heading added for 1601.

Body of Document

Section 100

Former Section I was renumbered to 100 to reflect new numbering system. Section title amended to be consistent with other DHEC regulations.

101

Subsection heading added for codification and consistency.

Section 200

Former Section II was renumbered to 200 to reflect new numbering system. Definitions within this section shall be moved and placed in alphabetical order.

201

Subsection heading added for codification and consistency.

201.A

First sentence deleted and moved to introduce this section. Definition from 200.J inserted to begin placement of definitions in alphabetical order. Added “ALS” for clarity.

201.B

Definition deleted and replaced with definition from 200.K.

201.C
Definition deleted and replaced with definition from 200.E.
201.D
Definition deleted and replaced with definition from 200.R. Punctuation inserted for grammatical consistency.
201.E
Definition deleted and replaced with new definition for "Condition Requiring an Emergency Response."
201.F
Definition deleted and replaced with definition from former 200.C. Stylistic change made to first portion of inserted definition for clarity and consistency.
201.G
Definition deleted and replaced with new definition for "Convalescent Vehicle."
201.H
Definition deleted and replaced with new definition for "Emergency Transport."
201.I
Definition deleted and replaced with definition from former 200.B. Stylistic change made to first portion of inserted definition for consistency. Definition updated to include levels of certification for clarity.
201.J
Definition deleted and replaced with definition from 200.Q. Punctuation inserted for grammatical consistency.
201.K
Definition deleted and replaced with definition from former 200.H.
201.L
Definition deleted and replaced with definition from former 200.G.
201.M
Definition deleted and replaced with definition from former 200.I.
201.N
Definition deleted and replaced with definition from 200.P. Deleted "Extended" from inserted definition to update for current practices.
201.O
Definition deleted entirely as this category shall no longer exist in the amended regulations and replaced with definition from former 200.L
201.P
Definition deleted and replaced with new definition for "Moral Turpitude."
201.Q
Definition deleted and replaced with new definition for "Nonemergency Transport."
201.R
Definition deleted and replaced with definition from former 200.M.
New 201.S
New item number added. Definition inserted from former 200.N. Stylistic change made for consistency.
New 201.T
New item added. New definition added for "Revocation."
New 201.U
New item number added. Definition inserted from former 200.F.
New 201.V
New item number added. Definition inserted from former 200.D. Stylistic change made to beginning for clarity and consistency. Grammatical change for consistency.
New 201.W
New item added. New definition added for "Suspension."
New 201.X
New item added. New definition added for "The Department."

New Section 300

This entire section titled "Enforcing Regulations" was added to detail the enforcement of regulations by the Department. All subsections are pursuant to statute and consistent with other DHEC regulations.

New Subsection 301

This subsection addresses general provisions of enforcement and is consistent with other DHEC regulations.

New Subsection 302

This subsection addresses the inspection/investigation process and is consistent with other DHEC regulations.

New Subsection 303

This subsection addresses enforcement actions by the department and is consistent with other DHEC regulations.

New Subsection 304

This subsection addresses the violation of standards classifications, monetary penalty ranges, and appeal process.

Section 400

This entire section was moved from former Section III to allow for the insertion of the New Section 300 and renumbered to Section 400 to reflect new numbering system.

Subsection 401

Former subsection 301 renumbered to 401 to accommodate new section number.

401.A

The term "public entities" was added to the list of potential applicants for licensure to reflect new standards.

401.A.4

The service "director" was added to the list of notifications of change to the Department to reflect new standards.

401.A.5

"Address" was added to the requirements on the personnel roster so the Department may keep an updated address listing in the database for important notices.

401.A.10

Agent phone number and copy of insurance policy was added to the insurance requirement for verification purposes by the Department. The liability coverage and malpractice coverage amounts were increased pursuant to current standard insurance policies and practices in use today.

401.A.11

Moved item to new item 401.A.12 and replaced with copy of current DEA license to be consistent with current practices.

401.A.12

New item number. Inserted wording from former 401.A.11 for consistency and readability.

401.B

Appeal process for disapproved licensure was added for clarity and consistency.

New 401.C.1

This new subsection item was added pursuant to statute to address fines for point loss upon re-inspection of an ambulance.

401.D

Grammatical change for consistency.

401.H

Stylistic change for clarity and consistency.

Subsection 402

Former subsection 302 was renumbered to 402 to accommodate new section number. Notation added to heading to delineate monetary penalty category pursuant to statute.

402.A.1 - 4

Punctuation added for clarity and consistency.

New 402.G

This new subsection item was added to address the mandatory Medical Control Physician Workshop attendance of all new medical control physicians.

Subsection 403

Former subsection 303 was renumbered to 403 to accommodate new section number. Notation added to heading to delineate monetary penalty category pursuant to statute.

403.B

First part of sentence deleted due to change in licensure parameters and words "Shall have" inserted for grammatical purposes.

403.C

Term "onboard" inserted for clarity of personnel placement. Changed words "agreement" to plural form for consistency.

New 403.C.1

New subsection item added to clarify use of lights and sirens by non-emergent transport services.

New 403.C.2

New subsection item added to clarify exceptions made to 403.C.1.

403.D

Capitalized section reference for codification purposes. Reference change to reflect new numbering system.

403.E

Reference change to reflect new numbering system.

403.F

This subsection item was deleted due to current training standards addressed in Section 900.

403.G

This subsection item number was changed to item number 403.F to reflect deletion of former item.

Former Subsection 304.

This entire subsection was deleted. This category no longer exists in current practice.

Subsection 404

Former subsection 305 renumbered to 404 to accommodate new section number and deletion of former subsection 304. Notation added to heading to delineate monetary penalty category pursuant to statute. Term "extended" deleted from title and text as this term is no longer used. Words "onboard the ambulance" were added for clarity of personnel placement. Provisions added for initial applicants without call history to determine licensure category.

Subsection 405

Former subsection 306 renumbered to 405 to accommodate new section number and deletion of former subsection 304. Notation added to heading to delineate monetary penalty category pursuant to statute. Words "onboard the ambulance" were added for clarity of personnel placement. Provisions added for initial applicants without call history to determine licensure category.

Subsection 406

Former subsection 307 renumbered to 406 to accommodate new section number and deletion of former subsection 304. Notation added to heading to delineate monetary penalty category pursuant to statute.

406.A

Reference changes to reflect new numbering system. Verbiage changed for consistency.

406.B

Reference change to reflect new numbering system.

406.E

Reference change to reflect new numbering system.

Subsection 407

Former subsection 308 renumbered to 407 to accommodate new section number and deletion of former subsection 304. Notation added to heading to delineate monetary penalty category pursuant to statute. Wording changes for clarity were made to delineate type of patient and placement of personnel. Verbiage changed from "the" to "these" for clarity.

Subsection 408

Former subsection 309 renumbered to 408 to accommodate new section number and deletion of former subsection 304.

Subsection 409

Former subsection 310 renumbered to 409 to accommodate new section number and deletion of former subsection 304. Notation added to heading to delineate monetary penalty category pursuant to statute.

409.A

Deleted percentage requirement to accommodate smaller agencies. Grammatical change due to deletion.

409.C

Reference change to reflect new numbering system.

409.D

This subsection item was deleted due to current training standards addressed in Section 900.

409.E

This subsection item was renumbered to 409.D to reflect deletion of former item.

Section 500

This entire section was moved from former Section IV to accommodate insertion of New Section 300 and renumbered to Section 500. Last portion of heading deleted and moved to create new subsection heading. Notation added to section title to delineate monetary penalty category pursuant to statute.

501

New subsection heading added for codification purposes and clarity.

501.A

Verbiage changed from “the” to “these” for clarity.

501.B

Verbiage added to clarify air ambulance permit display requirements.

Section 600

This entire section was moved from former Section V and renumbered to Section 600 to accommodate insertion of New Section 300 and new numbering system.

Subsection 601

Former subsection 501 renumbered to 601 to accommodate new section number. Design criteria referencing outdated Federal KKK Specifications have been deleted and verbiage added to clarify minimum criteria for South Carolina.

601.A

Specific reference to Federal KKK Specification deleted and term “most current edition” inserted in its place. Deleted obsolete mirror reference for consistency.

601.B

Color designation deleted and new verbiage lifting the restriction inserted as this requirement is no longer necessary for federal funding.

601.C

This entire subsection item has been deleted and revised to reflect color change. More specific wording was inserted for the location, type, size, color, and quality of markings and emblems for clarity.

601.D.1

Update verbiage to current term.

601.I.1

Update verbiage to current term.

601.I.2

Update verbiage to current term.

601.I.5

Deleted specific reference to type of mirror as it is no longer in use.

601.J

Item heading changed for codification purposes and clarity. All subsections contained within this item have been renumbered for codification purposes.

601.J.2

Added thermostatic option to update to current standards.

601.J.5

Grammatical change for consistency.

601.K

Deleted item for consistency with current practices.

601.L

Renumbered to 601.K to reflect deletion of former item number 601.K. Deleted outdated reference to Federal KKK Specification and inserted "most current edition" in its place. Deleted specific anchoring requirements to bring it current with federal standards. Deleted redundant terminology for readability.

601.M

Renumbered to 601.L to reflect deletion of former item number 601.K. Deleted RF power requirement as this is no longer necessary with current technology. Added verbiage to clarify minimum transmission requirements. Deleted EMS Radio Communication Plan due to it being outdated and no longer used.

New 601.L.1

Added requirement that all radio frequencies be supplied to the Department for disaster situation purposes.

New 601.L.2

Added item to allow for future technological advancements in communication.

601.N

Renumbered to 601.M to reflect deletion of former item 601.K.

601.O

Deleted entire item as intercoms are no longer necessary with current ambulance design standards.

601.P

Renumbered to 601.N to reflect deletion of former items 601.K and 601.O. Deleted placement restriction due to current ambulance design standards.

601.Q

Renumbered to 601.O to reflect deletion of former items 601.K and 601.O.

Section 700

This entire section was moved from Section VI and renumbered to 700 to accommodate new numbering system and insertion of New Section 300. Notation was added to heading to delineate monetary penalty classification pursuant to statute.

Subsection 701

Former subsection 601 was renumbered to 701 accommodate new section number.

701.A

Update verbiage to current term.

701.A.1

Update verbiage to current term.

701.A.2

Update verbiage to current term.

701.B.2

Power supply delineation, valve requirement, and continuous suction requirements were deleted to accommodate current standard suction devices. Age and weight appropriateness added to allow for both pediatric and adult patients. Minimum reservoir verbiage added to allow for larger units.

701.D

Nasopharyngeal airways were added to this requirement to allow for secondary airway maintenance in the event of clenched teeth. As such, the sizes in millimeters were deleted to account for differing measurements between the two devices.

701.F.4

Quotation marks added for grammatical consistency.

701.G

Option for taped tongue blades deleted as commercial bite sticks are the new standard and much safer for the patient.

701.K

Deleted aluminum foil option as commercial occlusive dressings are the new standard and much safer for the patient. Grammatical change to accommodate deletion.

701.O.1

Added appropriate straps to the requirement as these are necessary to secure the device to the patient. Grammatical changes made for clarity and readability.

701.O.2

Added appropriate straps to the requirement as these are necessary to secure the device to the patient.

701.T

Deleted poison kit from required list as Syrup of Ipecac is no longer recommended for use on pediatric patients and is seldom used for adults.

701.U

Renumbered to 701.T to accommodate for deletion of former item. Added requirement for pediatric and adult sizes to account for various patients.

701.V

Renumbered to 701.U to accommodate deletion of former item 701.T.

701.W

Renumbered to 701.V to accommodate deletion of former item 701.T.

701.X

Renumbered to 701.W to accommodate deletion of former item 701.T..

701.Y

Renumbered to 701.X to accommodate deletion of former item 701.T. Specific type of fire extinguisher added for clarity

701.Z

Renumbered to 701.Y to accommodate deletion of former item 701.T. Reflective vests for each crew member added for safety purposes.

701.AA.

Renumbered to 701.Z to accommodate deletion of former item 701.T.

New 701.AA

New items for head and eye protection added for crew member safety.

701.CC.4

New item added to ensure patent airway should intubation attempts fail.

701.CC.5

New item added to ensure visible objects lodged in airway can be cleared.

701.CC.5.1

New item added to further clarify size requirement.

701.CC.5.2

New item added to further clarify size requirement.

Subsection 702

Former subsection 602 was renumbered to 702 to reflect new section number. Reference changed to reflect new numbering system.

702.A

Added verbiage to allow this item to be carried as a medical control option.

702.B

Added size 24 to increase selection for newborn emergencies.

702.E.

Delineated this item as optional equipment according to the medical control physician as not all ambulances within this category should be required to carry it.

702.O

Deleted “ringers lactate” and combination exception from this item to allow for other appropriate solutions.

702.P

Deleted this item entirely from the list as MAST trousers are expensive, consume valuable space, and are rarely used.

Former 702.Q

Renumbered to702.P to accommodate deletion of former item. Changed term from “needle” to “devices” for clarity and deleted needle size requirement to allow for both pediatric and adult sizes. Added requirements for both pediatric and adult due to new standards.

Former 702.R.

Renumbered to 702.Q to accommodate deletion of former item number 702.P. Added verbiage to allow for both adult and pediatric patients in need of monitoring. Corrected term for accuracy.

Former 702.S

Renumbered to 702.R to accommodate deletion for former item number 702.P Added fluids to this requirement as they need to be approved by the Medical Control Committee prior to allowing their use.

Former 702.T.

Deleted entire item as this solution is not widely used and should not be mandatory.

New 702.S

Item added to be consistent with subsection 701.

702.S.1

Item added to further clarify size requirement.

702.S.2

Item added to further clarify size requirement.

New 702.T

Item added to be consistent with subsection 701.

New 702.U

Item added for consistency with best practices in needle safety.

New 702.V

Item added to be consistent with federal pediatric mandates.

Subsection 703

Former subsection 603 renumbered to 703 to reflect new section number. Former item numbers one through five and items ten and eleven have been deleted. These items are rarely used and take up much needed space. Former item numbers six through nine are renumbered for codification and to reflect the deletions. Minimum size requirements have been added to new item numbers C and D for clarity.

Former 703.B

This entire item has been deleted as it is redundant.

Subsection 704

Former subsection 604 renumbered to 704 to reflect new section number.

704.A

References changed to reflect new numbering system.

704.B

References changed to reflect new numbering system.

704.C

References changed to reflect new numbering system.

Subsection 705

Former subsection 605 renumbered to 705 to reflect new section number.

705.A

References changed to reflect new numbering system. Verbiage changed for consistency.

705.B

References changed to reflect new numbering system. Verbiage changed for consistency.

Subsection 706

Former subsection 606 renumbered to reflect new section number.

706.C

References changed to reflect new numbering system.

706.E

References changed to reflect new numbering system.

706.E.5

Solution requirement changed to be consistent with subsection 702.

706.E.6

Item deleted to be consistent with subsection 702.
706.E.7
Item renumbered to 706.E.6 to reflect deletion of former item.
706.E.8
Item deleted to be consistent with subsection 702.
706.E.9
Item renumbered to 706.E.7 to reflect deletion of former items.
706.E.10
Item renumbered to 706.E.8 to reflect deletion of former items.
706.F
Referenced changed to reflect new numbering system. Reference of "D" changed to "E" to correct error from previous edition. Verbiage changed to be consistent with changes in subsection 702.
Section 800
This entire section was moved from former Section VII and renumbered to accommodate insertion of new Section 300 and reflect new numbering system. Notation was added to section title to delineate monetary penalty classification pursuant to statute.
Subsection 801
Former subsection 701 was renumbered to 801 to reflect new section number.
Subsection 802
Former subsection 702 was renumbered to 802 to reflect new section number.
802.E
Verbiage added to allow other germicidal agents to be used for decontamination. Reference changed to reflect new numbering system.
802.H
Verbiage deleted to clarify use of cleaning solutions.
Subsection 803
Former subsection 703 was renumbered to 803 to reflect new section number.
803.B
Term updated to current verbiage.
Subsection 804
Former subsection 704 was renumbered to 804 to reflect new section number. Notation added to heading to delineate monetary penalty classification pursuant to statute.
804.D
Requirement that humidifier be dated upon initial use deleted because item is to be used one time only, cleaned and put away making date redundant.
Subsection 805
Former subsection 705 was renumbered to 805 to reflect new section number. Notation added to heading to delineate monetary penalty classification pursuant to statute.
Subsection 806
Former subsection 706 was renumbered to 806 to reflect new section number.
806.E
Reference changed to reflect new numbering system.
Subsection 807
Former subsection 707 was renumbered to 807 to reflect new section number.
Subsection 808
Former subsection 708 was renumbered to 808 to reflect new section number. Archaic term deleted from title for clarity.
808.A
Added verbiage to exempt single use items from the nonpermeable material requirement because such items are to be thrown away after use.
808.B
Deleted archaic term and stylistic change for clarity.
Subsection 809

Former subsection 709 was renumbered to 809 to reflect new section number. Notation added to heading to delineate monetary penalty classification pursuant to statute.

Subsection 810

Former subsection 710 was renumbered to 810 to reflect new section number. Notation added to heading to delineate monetary penalty classification pursuant to statute.

Subsection 811

Former subsection 711 was renumbered to 811 to reflect new section number. Notation added to heading to delineate monetary penalty classification pursuant to statute.

Subsection 812

Former subsection 712 was renumbered to 812 to reflect new section number. Notation added to heading to delineate monetary penalty classification pursuant to statute.

812.B

Term updated to be consistent with subsection 808.

812.C

Reference changed to reflect new numbering system.

Subsection 813

Former subsection 713 was renumbered to 813 to reflect new section number.

Subsection 814

Former subsection 714 was renumbered to 814 to reflect new section number.

Subsection 815

Former subsection 715 was renumbered to 815 to reflect new section number.

815.B

Item revised to address OSHA hand washing standard for clarity.

Section 900

This entire section was moved from former Section VIII and renumbered to accommodate insertion of new Section 300 and reflect new numbering system.

Subsection 901

Former subsection 801 was renumbered to 901 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute.

901.A

Stylistic changes made for clarity and consistency. Verbiage added to denote only those institutions approved by the Department may conduct this training program. Regional EMS training offices were added to the list of approved institutions to disallow monopolies.

901.B

Stylistic changes made for clarity and consistency. Verbiage added to denote only those institutions approved by the Department may conduct this training program. A list of the approved institutions was added for consistency.

901.C

Stylistic changes made for clarity, consistency, and readability. Verbiage updated to bring item to current standards of paramedic training including the curriculum used and institutions approved to conduct this training.

901.D.1

Changed verbiage from “a state” to “the state” for clarity. Added requirement that the examinations must be approved by the Department to ensure quality. Deleted “developed” from this item because the state no longer develops courses.

901.D.2

Changed verbiage from “a state” to “the state” for clarity. Added requirement that the examinations must be approved by the Department to ensure quality.

901.D.3

Changed verbiage from “a state” to “the state” for clarity. Added requirement that the examinations must be approved by the Department to ensure quality. Stylistic changes made for consistency.

901.D.4.a.

Changed verbiage from “a state” to “the state” for clarity. Stylistic changes made for consistency. Verbiage changed from “pursuing” to “recertifying” for clarity.
901.D.4.b.
Deleted last portion of sentence as this exception is no longer applicable under current standards and practices.
901.E.4
Deleted requirement for annual review of protocols because this item is already completed every two years for relicensure and not necessary annually.
901.F
Item changed to clarify procedures applicants must follow to obtain approval by the Department for any type of pilot program.
New 901.G
New item added for clarification and consistency with current practices.
Subsection 902
Former subsection 802 renumbered to 902 to reflect new section number. Notation added to heading to delineate monetary penalty classification pursuant to statute.
902.A
Deleted outdated reference. Clarified position status on ambulance regarding patient care. Revised age for grammatical purposes.
902.A.1
Grammatical change for consistency.
902.A.3
Grammatical change for consistency. Deleted emergency room nurses since RNs are already named. Added “United States” for clarity. Corrected typographical error from “forced” to “forces”. Updated verbiage to include a refresher course and provide provisions for National Registry examinations.
902.A.4
Grammatical change for consistency.
902.C
Changed verbiage from “a state” to “the state” for clarity.
902.D
Added verbiage to delineate this option is only for intermediate and paramedic levels. Added verbiage to clarify option for basic level reactivation under new National Registry guidelines.
902.E
Grammatical change for consistency. Reference change to reflect new numbering system.
New 902.F
Provision added for National Registry credential requirements since the state has adopted National Registry as the standard.
New 902.G
Provision added for denial of certification based on felony indictments or convictions mandated by statute.
Subsection 903
Former subsection 803 renumbered to 903 to reflect new section number.
903.A
Grammatical change for consistency. Stylistic change for consistency. Verbiage changed to reflect new guidelines for reciprocity under the new National Registry standard.
903.B
Stylistic change for consistency. Added “state approved” to delineate which examination is acceptable.
Subsection 904
Former subsection 804 was renumbered to 904 to reflect new section number.
904.A
Stylistic changes for consistency.
904.A.2

Changed typographical error from “medial” to “medical” for clarity. Deleted examination procedures and inserted new guidelines for reciprocity under the new National Registry standard to be consistent with Section 903.
904.B
Added “approved” to be consistent with conditions in section 903. Changed verbiage from “advanced” to “paramedic” for clarity. Stylistic change made for consistency. Deleted sentence regarding out of state candidates as this is addressed in section 904.A.
Subsection 905
Former subsection 805 renumbered to 905 to reflect new section number.
905.A
Stylistic change for consistency.
New 905.B
Added provision that initial certifications must maintain National Registry credential to be consistent with state adoption as National Registry being the standard.
Subsection 906
Former subsection 806 renumbered to 906 to reflect new section number.
906.A
Stylistic change for consistency.
906.B
Former item 906.A.4 renumbered to 906.B for codification and clarity.
New 906.C
Added National Registry provision to be consistent with subsection 905.
Subsection 907
Former subsection 807 renumbered to 907 to reflect new section number. Notation added to heading to delineate monetary penalty classification pursuant to statute.
907.A
Verbiage added to include colleges as approved training institutions. Deleted “state certified” and added “certified and approved by the Department” for clarity.
907.B
Stylistic change for consistency.
907.C
Stylistic change for consistency.
Subsection 908
Former subsection 808 renumbered to 908 to reflect new section number.
908.A
Stylistic change for consistency. Added verbiage to clarify which course is acceptable.
908.B.1
Grammatical change for consistency.
908.B.3
Deleted entire item as requirement no longer used.
908.B.4
Item renumbered to 908.B.3 to reflect deletion of former item. Verbiage changed for consistency.
908.B.5
Item renumbered to 908.B.4 to reflect deletion of former item 908.B.3.
908.B.6
Item renumbered to 908.B.5 to reflect item deletion.
908.B.7
Item renumbered to 908.B.6 to reflect item deletion.
908.C
Grammatical change for consistency.
908.C.1
National Registry and South Carolina credential added to requirement for clarity. Experience increased to five years for consistency. Age change grammatically for consistency.

908.C.2

Item deleted for consistency.

908.C.3

Item renumbered to 908.C.2 to reflect deletion of former item 908.C.2.

908.C.4

Item renumbered to 908.C.3 to reflect deletion. Added word “a” for grammatical purposes.

908.C.5

Item renumbered to 908.C.4 to reflect deletion.

908.C.6

Item renumbered to 908.C.5 to reflect deletion.

908.C.7

Item renumbered to 908.C.6 to reflect deletion. Deleted “a state” and added “the Department” for clarification.

908.D.2

Added South Carolina and National Registry credential for consistency.

908.D.5

Deleted first sentence for consistency with subsection 908.C.

New 908.E

New item added to clarify instructor revocation/suspension parameters pursuant to standards.

Section 1000

This entire section was moved from former Section IX and renumbered to accommodate insertion of new Section 300 and reflect new numbering system. Notations were added to section title to delineate monetary penalty classification pursuant to statute.

1000.B.4

Typographical error corrected.

New 1000.C

This item was added to comply with child labor laws and restrict operation of an emergency vehicle to persons over the age of eighteen.

New 1000.D

This item was added to restrict persons from attending a patient while under felony indictment or with felony convictions pursuant to statute.

New 1000.E

This item was added to identify such individuals undergoing felony indictment or with past felony convictions to the Department so action may be taken pursuant to statute.

Section 1100

This entire section was moved from former Section X and renumbered to accommodate insertion of new Section 300 and reflect new numbering system. Notations were added to section title to delineate monetary penalty classification pursuant to statute.

1100.A

Grammatical change for consistency. Verbiage added to delineate certificate holder.

1100.A.1

A service was added to the eligible complaints so as to allow persons to initiate complaints against a service. Added verbiage to allow the Department to initiate an investigation based upon information other than that of a paper letter.

1100.A.2

Grammatical change for consistency.

1100.B.1

Grammatical change for consistency.

1100.B.16

Grammatical change for consistency.

Section 1200

This entire section was moved from former Section XI and renumbered to accommodate insertion of new Section 300 and reflect new numbering system.

Subsection 1201

Former subsection 1101 was renumbered to 1201 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute.

1201.A.1

References changed to reflect new numbering system. Grammatical change for consistency.

1201.A.2

Malpractice insurance coverage amount increased to update to standard coverage policies and practices in use today.

1201.B.2

Reference changed to reflect new numbering system.

1201.D.7

Verbiage added to include tail rotor illumination for safety.

1201.D.9

New item added to be consistent with best practices and requirements for ground ambulance.

1201.E.1.a

Minimum rotor craft flight hours increased to be consistent with current practices.

1201.E.1.c

Verbiage added to be consistent with criteria listed in 1201.E.1.b.

1201.E.2.a

Minim fixed-wing flight hours increased to be consistent with item 1201.E.1.a.

1201.G.1

Deleted "South Carolina" certification requirement for consistency.

1201.H.1

Second sentence deleted and moved for codification purposes.

1201.H.2

New item created from previous item for codification purposes. Verbiage added for clarity and readability.

Subsection 1202

Former subsection 1102 was renumbered to 1202 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute.

1202.A

Updated verbiage to current term.

1202.B.1

Item revised to be consistent with item number 701.B.2.

1202.D

Item revised to be consistent with item number 701.D.

1202.G

Item revised to be consistent with item number 701.G.

1202.K

Item revised to be consistent with item number 701.K

1202.O.1

Deleted verbiage to allow this to be an optional piece of equipment. Added verbiage for clarity.

1202.O.2

Item revised to be an optional piece of equipment.

1202.T

Item deleted to be consistent with former item number 701.T.

1202.U

Item number changed to 1202.T to reflect deletion of former item. Verbiage added to be consistent with new item number 701.T.

1202.V

Item number changed to 1202.U to reflect deletion of former item 1202.T.

1202.W

Item number changed to 1202.V to reflect deletion of former item 1202.T.

1202.X
Item number changed to 1202.W to reflect deletion of former item 1202.T.
1202.Y
Item number changed to 1202.W to reflect deletion of former item 1202.T. "Halon" deleted and new verbiage "clean agent type" added to allow for newer fire suppression chemicals used onboard helicopters.
1202.Z
Item number changed to 1202.Y to reflect deletion of former item 1202.T. Verbiage added to allow this item to be an optional piece of equipment.
1202.AA
Item number changed to 1202.Z to reflect deletion of former item 1202.T.
New 1202.AA
Item was added to be consistent with item number 701.CC.4.
New 1202.BB
Item as added to be consistent with item number 701.CC.5.
New 1202.BB.1
Item added to clarify size requirement.
New 1202.BB.2
Item added to clarify size requirement.
New 1202.CC
Items added to ensure safety for helicopter crew members.
Subsection 1203
Former subsection 1103 was renumbered to 1203 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute. References were changed to reflect new numbering system.
Subsection 1204
Former subsection 1104 was renumbered to 1204 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute. Reference changed to reflect new numbering system.
1204.A
Verbiage changed to be consistent with item number 702.R.
1204.R
Verbiage changed to be consistent with item number 702.O.
New 1204.S
Item added to be consistent with items added in subsection 1202.
New 1204.T
Item added to be consistent with items added in subsection 1202.
New 1204.T.1
Item added to clarify size requirement.
New 1204.T.2
Item added to clarify size requirement.
New 1204.U
Item added for consistency with best practices in needle safety.
New 1204.V
Item added to be consistent with federal pediatric mandate.
Subsection 1205
Former subsection 1105 renumbered to 1205 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute.
Subsection 1206
Former subsection 1106 renumbered to 1206 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute.

New Section 1300

This entire section titled "Patient Care Reports" was added to address the handling, storage and confidentiality of patient care reports. All subsections are pursuant to statute and consistent with other DHEC regulations.

New Subsection 1301

This new subsection details the responsibilities of the forms control officer.

New Subsection 1302

This new subsection addresses the content of patient care reports and is consistent with other DHEC regulations.

New Subsection 1303

This new subsection addresses report maintenance pursuant to statute and is consistent with other DHEC regulations.

Section 1400

This entire section was moved from former Section XII and renumbered to accommodate new numbering system and the insertion of new Sections 300 and 1300.

Subsection 1401

Former subsection 1200 was renumbered to 1401 to reflect new section number and for consistency.

1401.A

Grammatical change for consistency.

Subsection 1402

Former subsection 1201 was renumbered to 1402 to reflect new section number.

Subsection 1403

Former subsection 1202 was renumbered to 1403 to reflect new section number.

1403.B

Capitalization of "Department" for consistency.

1403.D

Capitalization of "Department" for consistency.

Subsection 1404

Former subsection 1203 was renumbered to 1404 to reflect new section number.

Subsection 1405

Former subsection 1204 was renumbered to 1405 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute.

Subsection 1406

Former subsection 1205 was renumbered to 1406 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute.

Subsection 1407

Former subsection 1206 was renumbered to 1407 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute.

Subsection 1408

Former subsection 1207 was renumbered to 1408 to reflect new section number. Heading was changed to correct typographical error. Notation was made to heading to delineate monetary penalty classification pursuant to statute.

1408.A

Verbiage added for readability.

New Section 1500

This entire section was added to address severability. Section title added for consistency with other DHEC regulations.

Subsection 1501

Verbiage added to specifically address the severability clause required to be consistent with other DHEC regulations.

New Section 1600

This entire section was added to address conditions not specifically outlined in these regulations.

Subsection 1601

Verbiage added for consistency with other DHEC regulations.

Instructions: Replace existing R.61-7, Emergency Medical Services, in its entirety by this amendment.

Text:

REGULATION 61-7 – EMERGENCY MEDICAL SERVICES

Statutory Authority: S.C. Code Ann. Sections 44-61-30 and 44-78-65 (1976 Code of Laws, as amended)

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SECTION 100. SCOPE AND PURPOSE

Section 101. SCOPE OF ACT 1118 OF 1974 AS AMENDED.

A. Establishment of EMS program.

B. General licensing, certification, inspection and training procedures.

C. Establishment of an Emergency Medical Service Council and duties of the Council.

D. Establishment of the Department of Health and Environmental Control authority for enforcement of these rules and regulations.

SECTION 200. DEFINITIONS.

Section 201. Definitions as stated in the Act.

A. Advanced Life Support (ALS): Treatment of life-threatening medical emergencies through the use of techniques such as endotracheal intubation, administration of drugs or intravenous fluids, cardiac monitoring, and electrical therapy by a qualified person pursuant to these regulations.

B. Advanced Life Support Service: A service provider that in addition to basic life support minimum standard, provides at least 2 EMT's, one of which is an EMT-Intermediate or Paramedic and demonstrates the capability to provide IV therapy, advanced airway care, approved drug therapy, cardiac monitoring and electrical therapy on 80% of all emergency calls.

C. Air ambulance: Any aircraft that is intended to be used for and is maintained or operated for transportation of persons who are sick, injured or otherwise incapacitated.

D. Basic Life Support Service: A service provider that meets all criteria for basic life support minimum standard and is able to provide one EMT-Basic to 100% of all calls.

E. Condition Requiring an Emergency Response: The sudden onset of a medical condition manifest by symptoms of such sufficient severity, including severe pain, that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect without medical attention, to result in:

1. Serious illness or disability;

2. Impairment of a bodily function;

3. Dysfunction of the body; or

4. Prolonged pain, psychiatric disturbance, or symptoms of withdrawal.

F. Continuing education: An educational program designed to update the knowledge and skills of its participants by attending conventions, seminars, workshops, educational classes, labs, symposiums, etc. Points toward recertification may be awarded for successful completion of approved activities.

G. Convalescent vehicle: A vehicle that is used for making nonemergency calls such as scheduled visits to a physician's office or hospital for treatment, routine physical examinations, x-rays or laboratory tests, or is used for transporting patients upon discharge from a hospital or nursing home to a hospital or nursing home or residence, or other nonemergency calls.

H. Emergency Transport: Services and transportation provided after the sudden onset of a medical condition manifesting itself by acute symptoms of such severity, including severe pain, that the absence of medical attention could reasonably be expected to result in the following:

1. Placing the patient's health in serious jeopardy;

2. Causing serious impairment to bodily functions; or

3. Causing serious dysfunction of bodily organ or part;

4. A situation that resulted from an accident, injury, acute illness, unconsciousness, or shock, for example, required oxygen or other emergency treatment, required the patient to remain immobile because of a fracture, stroke, heart attack, or severe hemorrhage.

I. EMT: Emergency Medical Technician. An individual possessing a valid basic, intermediate, or paramedic certificate issued by the State pursuant to the provisions of these Regulations.

J. EMT First Responder Service: A licensed agency providing medical care at the EMT-Basic level or above, as a nontransporting first responder.

K. FAA: Federal Aviation Administration. The agency of the federal government that governs aircraft design, operations, and personnel requirements.

L. Fixed Wing: Any aircraft that uses fixed wings to permit it to take off and fly.

M. Flight Nurse: A licensed registered nurse who is trained in all aspects of emergency care except roadside pickups and who has been so designated by the Department.

N. Intermediate Life Support Service: A service provider that, in addition to basic life support minimum standard, provides at least 2 EMT's, one of which is an EMT-Intermediate or EMT-Paramedic and demonstrates the capability to provide IV therapy and advanced airway care on 80% of all emergency calls.

O. Medical Control: Medical Control is usually provided by a unit's physician who is responsible for the care of the patient by the provider’s medical attendants. Actual medical control may be direct by two-way voice communications (on-line) or indirect by standing orders or protocols (off-line) control.

P. Moral Turpitude: Behavior that is not in conformity with and is considered deviant by societal standards.

Q. Nonemergency Transport: Services and transportation provided to a patient whose condition is considered stable. A stable patient is one whose condition reasonably can be expected to remain the same throughout the transport and for whom none of the criteria for emergency transport has been met. Prearranged transports scheduled at the convenience of the service or medical facility will be classified as a nonemergency transport.

R. Off-Line Medical Control Physician: A provider’s medical control physician who actually takes responsibility for treatment of patients in the prehospital setting, by standing orders or protocols.

S. On-Line Medical Control Physician: The physician who directly communicates with EMT's regarding appropriate patient care procedures en-route. An on-line medical control physician must be available for all EMT's performing procedures designated as such by the Department.

T. Revocation: The Department has permanently voided a license, permit, or certificate and the holder no longer may perform the function associated with the license, permit, or certificate. The Department will not reissue the license, permit, or certificate for a period of two years for a license or permit and three years for a certificate. At the end of this period, the holder may petition the Department for reinstatement.

U. Rotocraft: A helicopter or other aircraft that uses a rotary blade to permit vertical and horizontal flight without the use of wings.

V. Special purpose ambulance: An ambulance equipped and designated to transport only patients in need of specialized types of care. Examples include neonatal ambulances, cardiac-care ambulances, etc.

W. Suspension: The Department has temporarily voided a license, permit, or certificate and the holder may not perform the function associated with the license, permit, or certificate until the holder has complied with the statutory requirements and other conditions imposed by the Department.

X. The Department: The administrative agency known as the South Carolina Department of Health and Environmental Control.

SECTION 300. ENFORCING REGULATIONS.

Section 301. General.

A. The Department shall utilize inspections, investigations, consultations, and other pertinent documentation regarding an EMT, training facility, instructor, or provider in order to enforce these regulations.

B. The Department reserves the right to make exceptions to these regulations where it is determined that the health and welfare of those being served would be compromised.

Section 302. Inspections/Investigations.

A. An inspection shall be conducted prior to initial licensing of a provider and subsequent inspections conducted as deemed appropriate by the Department.

B. All providers, EMTs, training facilities, and instructors are subject to inspection or investigation at any time without prior notice by individuals authorized by the Department.

C. Individuals authorized by the Department shall be granted access to all properties and areas, objects, equipment, and records, and have the authority to require that entity to make photocopies of those documents required in the course of inspections or investigations. Photocopies shall be used for purposes of enforcement of regulations and confidentiality shall be maintained except to verify the identity of individuals in enforcement action proceedings.

Section 303. Enforcement Actions.

When the Department determines that an EMT, provider, instructor, or training facility is in violation of any statutory provision, rule, or regulation relating to the duties therein, the Department may, upon proper notice to that entity, impose a monetary penalty and/or deny, suspend, and/or revoke its certification, license, or authorization.

Section 304. Violation Classifications.

Violations of standards in this regulation are classified as follows:

A. Class I violations are those that the Department determines to present an imminent danger to the health, safety, or well-being of the persons being served or a substantial probability that death or serious physical harm could result therefrom. A physical condition or one or more practices, means, methods, operations, or lack thereof may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation exists after expiration of this time established by the Department may be considered a subsequent violation.

B. Class II violations are those, other than Class I violations, that the Department determines to have a negative impact on the health, safety or well-being of those being served. The citation of a Class II violation may specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation.

C. Class III violations are those that are not classified as Class I or II in these regulations or those that are against the best practices as interpreted by the Department. The citation of a Class III violation may specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation.

D. The notations “(I)” or “(II)”, placed within sections of this regulation, indicate that those standards are considered Class I or II violations, if they are not met, respectively. Standards not so annotated are considered Class III violations.

E. In arriving at a decision to take enforcement actions, the Department shall consider the following factors: specific conditions and their impact or potential impact on the health, safety, or well-being of those being served; efforts by the EMT, provider, training facility or instructor to correct cited violations; behavior of the entity in violation that reflects negatively on that entity’s character, such as illegal or illicit activities; overall conditions; history of compliance; and any other pertinent factors that may be applicable to current statutes and regulations.

F. When a decision is made to impose monetary penalties, the following schedule shall be used as a guide to determine the dollar amount:

Frequency of violation
of standard within a
36-month period:

MONETARY PENALTY RANGES

FREQUENCY	CLASS I	CLASS II	CLASS III
1st	$300 - 500	$100 - 300	$50 - 100
2nd	$500 – 1,500	$300 – 500	$100 - 300
3rd	$1,000 – 3,000	$500 – 1,500	$300 - 800
4th	$2,000 - 5,000	$1,000 – 3,000	$500 –1,500
5th	$5,000 - 7,500	$2,000 – 5,000	$1,000 – 3,000
6th or more	$10,000	$7,500	$2,000 – 5,000

G. Any enforcement action taken by the Department may be appealed pursuant to the Administrative Procedures Act beginning with Section 1-23-310.

SECTION 400. LICENSING PROCEDURES.

Section 401. Application.

A. Application for license shall be made to the Department by private firms, public entities, volunteer groups or non-federal governmental agencies. The application shall be made upon forms in accordance with procedures established by the Department and shall contain the following:

1. The name and address of the owner of the licensed provider or proposed licensed provider;

2. The name under which the applicant is doing business or proposes to do business;

3. A description of each ambulance, including the make, model, year of manufacture or other distinguishing characteristics to be used to designate applicant's vehicle.

4. The location and description of the place or places from which the licensed provider is intended to operate. The Department shall be notified within five (5) working days of any expansion of the service or if the headquarters, director or any substation locations are changed.

5. Personnel roster showing EMT's name, address, certification number and expiration date.

6. Type of license applied for.

7. Name, address, and phone number of medical control physician.

8. Name, fax, e-mail, and phone number of person in charge of day-to-day operations.

9. Number of units and level of service provided from each transporting station.

10. Insurance information, to include name of insurance company, agent, phone number and type of coverage. A copy of insurance policy(s) shall be furnished to the Department upon request. The minimum limits of coverage shall be $1,000,000 liability and $500,000 malpractice per occurrence.

11. A copy of current Drug Enforcement Agency license, when applicable.

12. Such other information as the Department shall deem reasonable and necessary to a fair determination of compliance with this regulation.

B. The Department shall issue a license valid for a period of two (2) years when it is determined that all the requirements of this regulation have been met. If disapproved, the applicant may appeal in a manner pursuant to the Administrative Procedures Act beginning with Section 1-23-310.

C. Subsequent to issuance of any license, the Department shall cause to be inspected each licensed provider (ambulances, equipment, personnel, records, premises, and operational procedures) whenever that service is initially licensed. Thereafter, services will be inspected by the Department on a random basis with a percentage of permitted ambulances inspected. These random inspections will be conducted dependent upon past compliance history.

1. Pursuant to Section 44-61-70 of the Code, the following fine schedule shall be used when a permitted ambulance or licensed first responder service loses points upon reinspection:

Point Value of Item as Delineated on Inspection Report	Fine for Each Item
2	$15.00
3	$25.00
6	$50.00
9	$75.00
12	$100.00

D. The Department is herein authorized, pursuant to Section 44-61-70 of the Code, to suspend or revoke a license so issued at any time it determines that the holder no longer meets the requirements prescribed for operating as a licensed provider.

E. Renewal of any license issued under the provision of this Act shall require conformance with all the requirements of this Act as upon original licensing.

F. The Department shall be notified within five (5) working days when changes of ownership of a licensed provider are impending or occur so that a new license may be issued.

G. The issuance of a license shall not be construed so as to authorize any person, firm, corporation, or association to provide EMT first responder services or ambulance services or to operate any ambulance not in conformity with any ordinance or regulation enacted by any county, municipality or special purpose district or authority.

H. The Department reserves the right to make exceptions to these standards where it is determined that the health and welfare of the community requires the services of the provider. When an "exception" applies to an existing provider, it will continue to meet the standards in effect at the time it was licensed.

I. Conditions which have not been covered in these regulations shall be handled in accordance with the standard practices as interpreted by the Department.

Section 402. Medical Control Physician.(I)

Each licensed provider that provides patient care shall retain a medical control physician to maintain quality control of the care provided, whose functions include the following:

A. Quality assurance of patient care including development of protocols, standing orders, training, policies, and procedures; and approval of medications and techniques permitted for field use by direct observation, field instruction, in-service training or other means including, but not limited to:

1. Patient care report review;

2. Review of field communications tapes;

3. Post-run interviews and case conferences;

4. Investigation of complaints or incident report.

B. The medical control physician shall serve as medical authority for the licensed provider, to perform in liaison with the medical community, medical facilities, and governmental entities.

C. The medical control physician may have disciplinary authority sufficient to oversee the quality of patient care for all EMT's and retain other responsibilities as may be negotiated by agreement with the service.

D. Providers will register their medical control physician with the Department and provide a copy of their current standing orders and authorized drug list signed and dated by medical control physician.

E. The Department must be notified of any change in medical control physician, drug list or standing orders within ten (10) days.

F. The medical control physician may withdraw at his/her discretion, the authorization for personnel to perform any or all patient care procedure(s).

G. All initial Medical Control Physicians must attend a Medical Control Physician Workshop conducted by the Department within 12 months of being designated Medical Control Physician. Failure to attend the above mentioned workshop will result in immediate dismissal from that position.

Section 403. Criteria for License Category of Basic Life Support (Ambulance). (II)
(Minimum Standard):

A. Must have ambulances that are permitted or can be permitted pursuant to these regulations.

B. Shall have no less than five (5) EMT's associated with the provider.

C. Must have staffing patterns, policy and procedure, and if necessary, mutual aid agreements to assure that an ambulance is en route with at least one EMT onboard to all emergent calls within five (5) minutes or the next closest staffed ambulance must be dispatched, excluding prearranged transports. (Minimum crew shall be one driver and one EMT.) Volunteer Services (services not utilizing paid personnel) without on site personnel must have staffing patterns, policy and procedure, and if necessary, mutual aid agreements to assure that an ambulance is en route with at least one EMT onboard to all emergent calls within ten (10) minutes or have the closest staffed ambulance dispatched. (Minimum crew shall be one driver and one EMT.)

1. Non-emergent transport services shall not utilize emergency lights and sirens to a call and shall not utilize lights and sirens from a call unless patient condition deteriorates while on scene or onboard the ambulance.

2. An exception to the above provision regarding utilization of emergency lights and sirens by non-emergent transport services shall be made only when non-emergent transport services are operating under the auspices of a mutual aid agreement with the local emergency transport provider or during a disaster situation.

D. The Department will, upon request, be furnished with staffing patterns, policy and procedure, and mutual aid agreements that assures compliance with the en route times noted in Section 403.C.

E. Industries that provide ambulance service for their employees may exempt the minimum number of EMT's noted in Section 403.B, as long as they meet en route times and staffing requirements of the regulations.

F. The provider maintains records that include, but are not limited to, approved ambulance run reports, employee / member rosters, time sheets, call rosters, training records and dispatch logs that show at least time call received, type call and time unit is en route. Such records are to be available for inspection by the Department with copies furnished upon request.

Section 404. Criteria for License Category – Intermediate Life Support: (Ambulance)(II)

To be categorized as an intermediate life support provider, the provider must meet all criteria established for basic life support**,** minimum standard. Additionally, the provider must demonstrate sufficient equipping and staffing capability to assure that life support consisting of at least IV therapy and advanced airway care are onboard the ambulance with two EMT's, one of which must be an Intermediate or Paramedic, at least 80% of the time on emergency calls. For initial applicants seeking licensure with no prior call history, category shall be determined by the Department on a case by case basis.

Section 405 Criteria for License Category - Advanced Life Support: (Ambulance)(II)

To be categorized as an advanced life support provider, the provider must meet all criteria established for basic life support**,** minimum standard. Additionally, the provider must demonstrate sufficient equipping and staffing capability to assure that life support consisting of IV therapy, advanced airway care, cardiac monitoring, electrical therapy and drug therapy, approved by the Department and the unit medical control physician, are onboard the ambulance with a minimum of two EMT's, one of which must be an EMT-Paramedic at least 80% of the time on emergency calls. For initial applicants seeking licensure with no prior call history, category shall be determined by the Department on a case by case basis.

Section 406. Criteria for License Category - Special Purpose Ambulance Provider: (Ambulance)(II)

A. Have an approved vehicle that is in compliance with Section 201.V of these regulations and meets minimum equipment requirements, as delineated in Section 705.

B. Have a medical control physician as delineated in Section 402 of these regulations.

C. Provide the Department with copies of policy and procedure for the operation of the special purpose ambulance.

D. Provide a list of special purpose equipment that is carried on the special purpose ambulance and is approved by the medical control physician for review and approval by the Department.

E. Provide other license information delineated in Section 401 of these regulations.

F. Except during extenuating circumstances, special purpose ambulances shall be used for interfacility transports only.

Section 407. Advanced Life Support Information. (II)

Ambulance service providers professing to provide advanced life support level of care for a patient must at all times transport an ALS patient in an ambulance which is fully equipped as an advanced life support unit, per these regulations, with an EMT-Paramedic, physician or RN, as delineated in these regulations, in the patient compartment.

Section 408. Advertising Level of Care.

Ambulance service providers may not advertise that they provide a level of life support above the category for which they are licensed.

Section 409. Criteria for License Category - EMT First Responder. (II)

A. Personnel assigned to First Responder duty must be currently certified EMT's with no less than five (5) EMT's associated with the provider.

B. Must have staffing patterns, policy and procedure, to assure that a First Responder unit is en route with at least one EMT to all emergent calls within five (5) minutes. Volunteer units (services not utilizing paid personnel) without on site personnel must have staffing patterns, policy and procedure to assure that a First Responder unit is en route with at least one EMT to all emergent calls within ten (10) minutes.

C. The Department will, upon request, be furnished with staffing patterns, policy and procedure to assure compliance with the en route times noted in Section 409.B.

D. The provider maintains records that include, but are not limited to, approved patient care report forms, employee/member rosters, time sheets, call rosters, training records and dispatch logs that show at least time call received, type call and time unit is en route. Such records are to be available for inspection by the Department with copies furnished upon request.

SECTION 500. PERMITS, AMBULANCE.(I)

Section 501. Vehicle and Equipment.

A. Before a permit may be issued for a vehicle to be operated as an ambulance, its registered owner must apply to the Department for an ambulance permit. Prior to issuing an original or renewal permit for an ambulance, the Department shall determine that the vehicle for which the permit is issued meets all requirements as to design,

medical equipment, supplies and sanitation as set forth in these regulations of the Department. Prior to issuance of the original permit, if the ambulance does not meet all minimum requirements and loses points during the inspection, no permit will be issued.

B. Permits will be issued for specific ambulances and will be displayed on the lower left-hand corner of the windshield of the ambulance or in the aircraft portfolio, whichever is applicable.

C. No official entry made upon a permit may be defaced, altered, removed or obliterated.

D. Permits may be issued or suspended by the Department.

E. Permits must be returned to the Department when the ambulance or chassis is sold or removed from ambulance service.

SECTION 600. STANDARDS FOR AMBULANCE PERMIT.

Section 601. Ambulance Design and Equipment.

The following designs are hereby established as the minimum criteria for ambulances utilized in South Carolina and are effective with the publication of these regulations. Any emergency ambulance purchased after publication of these requirements must meet the following minimum criteria.

A. Based Unit: Chassis should not be less than three quarter ton. In the case of modular or other type body units, the chassis shall be proportionate to the body unit, weight and size; power train shall be compatible and matched to meet the performance criteria listed in the most current edition of the Federal KKK Specification; maximum effective sized tires; power steering; power brakes; heavy duty cooling system; heavy duty brakes; mirrors; heavy duty front and rear shock absorbers; 70 amp battery; 100 amp alternator; front end stabilizer; driver and passenger seat belts; padded dash; collapsible steering wheel; door locks for all doors; inside mirror; inside control handles on rear and side doors. Four-wheel drive is recommended for operating in mountainous area during winter months where snow and ice is prevalent, in rough terrain and at the seashores where traction in sand is difficult.

B. Color: There shall be no restrictions concerning the painted color of the ambulance.

C. Emblems and Markings: All items in this section shall be of reflective quality and in contrasting color to the exterior painted surface of the ambulance.

1. There shall be a continuous stripe, of not less than 3” on cab and 6” on patient compartment, to encircle the entire ambulance with the exclusion of the hood panel.

2. Emblems and markings shall be of the type, size and location as follows:

a. Front: The word “AMBULANCE”, minimum of 4” in height, shall be in mirror image (reverse reading) for mirror identification by drivers ahead, with a “Star of Life”, minimum of 3” height, to the left and right of the word “AMBULANCE.” If vehicle design permits, there shall be a “Star of Life” of no less than 12” in height on the front section of the patient compartment.

b. Side: Each side of the patient compartment shall have the “Star of Life” not less than 12” in height. The word “AMBULANCE”, not less than 6” in height, shall be under or beside each star. The name of the licensee as stated on their provider’s license shall be of lettering not less than 3” in height.

c. Rear: The word "AMBULANCE", not less than 6"in height, and two "Star of Life" emblems of not less than 12" in height.

d. Top (roof): There shall be a "Star of Life" of not less than 32" in height as well as the individual provider's ambulance number (example: unit "23") of not less than 12"in height.

3. Prior to private sale of ambulance vehicles to the public, all emblems and markings in Section 601.C must be removed.

D. Interior Patient Compartment Dimensions:

1. Length: The compartment length shall provide a minimum of 25" clear space at the head and 15" at the foot of a 76" stretcher. Minimum inside length will be 116".

2. Width: Minimum inside width is 69 inches.

3. Height: Inside height of patient compartment shall be a minimum dimension of 60" from floor to ceiling.

E. Access to Vehicle:

1. Driver Compartment.

a. Driver's seat will have an adjustment to accommodate the 5th percentile to 95th percentile adult male.*

*Note: This means that the driver's area will accommodate the male drivers who are 90% of the smallest and largest in stature, which includes weight and size.

b. There shall be a door on each side of the vehicle in the driver's compartment.

c. Separation from the patient area is essential to afford privacy for radio communication and to protect the driver from an unruly patient. Provision for both verbal and visual communication between driver and attendant will be provided by a sliding shatterproof glass partition at upper portion of partition. The bulkhead must be strong enough to support an attendant's seat in the patient area at the top of the patient's head and to withstand deceleration forces of the attendant in case of accident.

2. Patient Compartment:

a. There shall be a door on the right side of the patient compartment near the patient's head area of the compartment. The side door must permit a technician to position himself at the patient's head and quickly remove him from the side of the vehicle should the rear door become jammed.

b. Rear doors shall swing clear of the opening to permit full access to the patient's compartment.

c. All patient compartment doors shall incorporate a holding device to prevent the door closing unintentionally from wind or vibration. When doors are open the holding device shall not protrude into the access area. Special purpose ambulances are exempt as long as access/egress is not obstructed due to wheelchair ramps or other specialized equipment.

d. Spare tire storage shall be positioned such that the tire can be removed without disturbing the patient.

F. Interior Lighting:

1. Driver Compartment: Lighting must be available for both the driver and an attendant, if riding in the driving compartment, to read maps, records, etc. There must be shielding of the driver's area from the lights in the patient compartment.

2. Patient Compartment: Illumination must be adequate throughout the compartment and provide an intensity of 40-foot candles at the level of the patient for adequate observation of vital signs, such as skin color and pupillary reflex, and for care in transit. Lights should be controllable from the entrance door, the head of the patient, and the driver's compartment. Reduced lighting level may be provided by rheostat control of the compartment lighting or by a second system of low intensity lights.

G. Illumination Devices:

1. Illumination Devices: Flood and load lights - there shall be at least one flood light mounted not less than 75" above the ground and unobstructed by open doors located on each side of the vehicle. A minimum of one flood light, with a minimum of 150 lumens equivalent, shall be mounted above the rear doors of the vehicle.

2. Warning lights - at a minimum alternating flashing red lights must be on the corners of the ambulance so as to provide 360^0 conspicuity.

3. Flares: Six red reflectorized or chemically induced illumination devices may be substituted for flares. Combustible type flares are not acceptable.

4. One set battery jumper cables, minimum 04 gauge copper, 600 amp rating.

H. Seats:

1. A seat for both driver and attendant will be provided in the driver's compartment with armrests on each side of driver's compartment.

2. Technician (Patient Compartment): two fixed seats, padded, 18" wide 18" high; to head of patient behind the driver, the other one may be square bench type located on curb (right) side of the vehicle. Space under the seats may be designed as storage compartments.

I. Safety Factors for Patient Compartment:

1. Stretcher Fasteners: Crash-stable fasteners must be provided to secure a primary and secondary stretcher.

2. Stretcher Restraint: If the stretcher is floor supported on its own support wheels, a means shall be provided to secure it in position under all conditions. These restraints shall permit quick attachment and detachment for quick transfer of patient.

3. Patient Restraint: A restraining device shall be provided to prevent longitudinal or transverse dislodgement of the patient during transit, or to restrain an unruly patient to prevent further injury or aggravation to the existing injury.

4. Safety Belts for Drivers and Attendants:

a. Quick-release safety belts will be provided for both driver and attendants, plus all seated patients (squad bench). These safety belts will be retractable and self-adjustable.

5. Mirrors:

a. There shall be two exterior rear view mirrors, one mounted on the left side of the vehicle and one mounted on the right side. Location of mounting must be such as to provide maximum rear vision from the driver's seated position.

b. There shall be an interior rear view mirror to provide the driver with a view of occurrences in the patient compartment.

6. Windshield Wipers and Washers:

a. Vehicle is to be equipped with two electrical windshield wipers and washers in addition to defrosting and defogging systems.

7. Sun Visors:

a. There shall be a sun visor for both driver and attendant.

J. Environmental Equipment: Driver/Patient Compartment.

1. Heating: Shall be capable of heating the compartment to a temperature of 75^0 F. within a reasonable period while driving in an ambient temperature of 0^0 F. It must be designed to recirculate inside air, also be capable of introducing 20% of outside air with minimum effect on inside temperature. Fresh air intake shall be located in the most practical contaminant-free air space on the vehicle.

2. Heating Control: Heating shall be thermostatically or manually controlled. The heater blower motors must be at least a three (3) speed design. Separate switches will be installed in patient compartment.

3. Air Conditioning: Air Conditioning shall have a capacity sufficient to lower the temperature in the driver's and patient's compartment to 75^0 F within a reasonable period and maintain that temperature while operating in an ambient temperature of 95^0 F. The unit must be designed to deliver 20% of fresh outside air of 95^0 F. ambient temperature while holding the inside temperature specified. All parts, equipment, workmanship, etc., shall be in keeping with accepted air conditioning practices.

4. Air Conditioning Controls: The unit air delivery control may be manual or thermostatic. The reheat type system is not required in the driver's compartment unit. Switches or other controls must be within easy reach of the driver in his normal driving position. Air delivery fan motor shall be at least a three (3) speed design. Switches and other control components must exceed in capacity the amperage and resistance requirements of the motors.

5. Insulation: The entire body, side, ends, roof, floor, and patient compartment doors shall be insulated to minimize conduction of heat, cold, or external noise entering the vehicle interior. The insulation shall be vermin and mildew-proof, fireproof, non-hygroscopic, non-setting type. Plywood floor when undercoated will be considered sufficient insulation for the floor area.

K. Storage Cabinets: All cabinets must meet the criteria as stated in the most current edition of the Federal KKK Specifications as to types of surfaces, design and storage. Cabinets must be of sufficient size and configuration to store all necessary equipment. All equipment must be accessible to attendant at all times.

L. Two-Way Radio Mobile: Two way radio mobile equipment shall be included which will provide a reliable system operating range of at least a 20 mile radius from the base station antenna. The mobile installation shall provide microphones for transmitting to at least medical control and receiving agencies, at both the driver's position and in the patient's compartment. Selectable speaker outputs, singly and in combination, shall be provided at the driver's position, in the patient's compartment, and through the PA system.

1. All radio frequencies utilized by a licensed service will be provided to the Department.

2. In the event technological advancements render the above components obsolete, the Department shall make determinations as to the efficacy of proposed technology on an individual basis prior to allowing their use.

M. Siren-Public Address: Siren and public address systems shall be provided. If a combined electronic siren and public address system is provided, in siren operation, the power output shall be 100 watts. In voice operation the power output shall be 45 watts through two exterior mounted speakers. The public address amplifier shall be independent of the mobile radio unit.

N. Antenna: Rooftop mounted with coaxial cable.

O. Glass Windows: All windows, windshield and door glass must be shatterproof.

SECTION 700. EQUIPMENT(II).

Section 701. Minimum Ambulance Medical Equipment.

Effective the date of these Rules and Regulations, all ambulances will be required to be equipped with, but not limited to the following:

A. Minimum of two stretchers.

1. One multilevel, elevating, wheeled stretcher with elevating back. Two patient restraining straps (chest and thigh) minimum, at least two inches wide shall be provided.

2. One secondary patient transport stretcher, with a minimum of two patient restraining straps. Minimum acceptable stretcher is vinyl covered, aluminum frame, folding stretcher.

B. Suction Devices.

1. An engine vacuum operated or electrically powered, complete suction aspiration system, shall be installed permanently on board to provide for the primary patient. It shall have wide bore tubing.

2. A portable suction device, age and weight appropriate, with wide bore tubing and at least a six ounce reservoir.

3. There must be an assortment of suction catheters (minimum of 2 each) on board. Sizes 6 fr, 8 fr, 10 fr, 16 fr, 18 fr. A rigid suction catheter (e.g. Yankaur) will also be carried. Minimum 2 each.

C. Bag Mask Ventilation Units.

1. One adult, hand-operated. Valves must operate in all weather, and unit must be equipped to be capable of delivering 90-100% oxygen to the patient.

2. One pediatric, hand-operated. Valves must operate in all weather and unit must be equipped to be capable of delivering 90-100% oxygen to the patient. Must include safety pop off mechanism with override capability.

3. One infant, hand-operated. Valves must operate in all weather and unit must be equipped to be capable of delivering 90-100% oxygen to the patient. Must include safety pop-off mechanism with override capability.

4. The following sized masks will be carried aboard all permitted ambulances to be used in conjunction with the ventilation units above, 0,1,2,3,4,5. Masks must be clear. Either the disposable or non-disposable types are acceptable.

D. Nonmetallic Oropharyngeal (Berman type)/ Nasopharyngeal Airways - adult, child and infant sizes. All airways shall be clean and individually wrapped.

1. Large adult

2. Med. adult

3. Large child

4. Child

5. Infant

E. "S" tube type airways may not be substituted for Berman type airways.

F. Oxygen Equipment.

1. Portable oxygen equipment: Minimum "D" size (360 Liter) cylinder, two required (one full spare cylinder). Liter flow gauges shall be non-gravity, dependent (Bourdon Gauge) type. Additionally, when the vehicle is in motion, all oxygen cylinders shall be readily accessible and securely stored.

2. Permanent On-Board Oxygen Equipment: The ambulance shall have a hospital type piped oxygen system, capable of storing and supplying a minimum of 2400 liters of humidified medical oxygen.

3. Single use, individually wrapped, non-rebreather masks and cannulas in adult and pediatric sizes shall be provided (3 each).

4. A “no smoking” sign will be prominently displayed in the patient compartment.

G. Bite sticks commercially made.(Clean and individually wrapped).

H. Twelve sterile dressings (minimum size 5" x 9").

I. Thirty-six each sterile gauze pads 4"x 4".

J. Twelve each bandages, self-adhering type, minimum three inches by five yards. Bandages must be individually wrapped or in clean containers.

K. A minimum of four commercial sterile occlusive dressings, four inches by four inches.

L. Adhesive Tape, hypoallergenic, one, two and three inches wide.

M. Burn sheets, two, sterile.

N. Splints:

1. Traction type, lower extremity, overall length of splint 43 inches, with limb support slings, padded ankle hitch, traction device and heel stand. Either the Bi-polar or Uni-polar type is acceptable.

2. Padded type, two or more, three feet long, of material comparable to four-ply wood for coadaptation splinting of the lower extremities.

3. Padded wooden type, two or more, 15 inches by three inches, for fractures of the upper extremity.(By local option, commercially available arm or leg splints may be substituted for items N-2,3 above).

O. Spinal immobilization devices:

1. Short spine board, at least 16 inches by 36 inches with appropriate straps. (Commercially available vest type KED, XP1 or other equivalent is acceptable.) Additionally: Child backboard or pedi-board or any type commercially available spinal immobilization device sized for the pediatric patient.

2. Long spine board, at least 16 inches by 72 inches constructed of three-quarter inch plyboard or equivalent material and having at least three quarter inch runners on each side for lifting with appropriate straps. If not equipped with runners, board must be designed so handholds are accessible even with gloves on.

3. Cervical collars to accommodate the infant, child, medium adult and large adult sizes. Collars must be manufactured of semirigid or rigid material.

4. Three, two inches by nine foot patient restraint straps.

5. Head immobilization device, commercially available or towel/ blanket rolls.

P. Five each triangular bandages.

Q. Two blankets.

R. Bandage shears, large size.

S. Obstetrical kit, sterile. The kit shall contain gloves, scissors or surgical blades, umbilical cord clamps or tapes, dressings, towels, perinatal pad, bulb syringe and a receiving blanket for delivery of infant.

T. Blood pressure manometer, cuff and stethoscope.

1. Blood pressure set, portable, both pediatric and adult (non mercurial type).

2. Stethoscopes.

U. Emesis basin or commercially available emesis container.

V. Bedpan and urinal.

W. Two dependable flashlights or electric lanterns, minimum size, two-D-cell or six volt lanterns.

X. Minimum of one fire extinguisher, CO2 or dry chemical, five pound capacity, type ABC.

Y. Working gloves, two pair with leather palms and reflective vests for each crew member.

Z. Minimum of 1000 cc of sterile water or normal saline solution for irrigation.

AA. Protective head gear and eye protection devices (minimum two each) must be carried on each ambulance. Standard fire face shield not acceptable.

BB. Personal protective equipment (gloves, masks, gowns and eyeshields).

CC. At the option of the medical control the following equipment may be added:

1. Laryngoscope handle with batteries.

2. Laryngoscope blades, adult, child and infant sizes. Infant sizes shall be 0,1,2 (straight). In addition, a #2 curved blade will be carried.

3. Six disposable endotracheal tubes, sizes to be from 2.5-9.0 with at least one of each size available. An intubation stylette sized for the neonate patient shall also be available (6 fr.).

4. Dual Lumen or LMA airways, age and weight appropriate.

5. Magill Forceps.

a. Adult.

b. Pediatric.

Section 702. Intermediate and Advanced Equipment.

Ambulances providing intermediate and advanced life support must, in addition to meeting all other requirements of Section 701 must have the following equipment:

A. Butterfly or scalp vein needles between 19 and 25 gauge, a total of four.(Medical Control Option)

B. Four each 14, 16, 18, 22 , and 24 gauge IV cannulae.

C. Two Macro drip sets.

D. Two Micro drip sets.

E. Three 21 or 23 and three 25 gauge needles, total six.(Medical Control Option)

F. Three tourniquets.

G. Laryngoscope handle with batteries.

H. Laryngoscope blades, adult, child, and infant sizes. Infant sizes shall be 0,1,2 (straight). In addition, a #2 curved blade will be carried.

I. Six disposable endotracheal tubes sizes to be from 2.5-9.0 with at least one of each size available. An intubation stylette sized for the neonate patient shall also be available (6 fr.).

J. Equipment for drawing blood samples. (Medical Control Option)

K. Syringes, two each 1 ml, 3 ml, 10 ml, 20 ml, and one 50 ml.

L. Twelve (12) alcohol and iodine preps for preparing IV injection sites.

M. One (1) roll of tape, at least ½ inch wide.

N. Five (5) band-aids.

O. A minimum of 4 liters of normal saline or other appropriate IV solution.

P. Intraosseous devices.

1. Pediatric – minimum of two sizes.

2. Adult – (Medical Control Option) minimum of one size.

Q. Ambulances providing advanced cardiac life support must be equipped with a battery powered (DC) portable monitor-defibrillator unit, appropriate for both adult and pediatrics with ECG printout. The monitor-defibrillator equipment utilized by the service has the capability of producing hard copy of patient's ECG.

R. Such drugs⁄fluids as may be approved by the Board for possession and administration by EMT's trained and certified in their use and authorized by the medical control physician, as documented to the Department.

S. Magill Forceps.

1. Adult

2. Pediatric

T. Dual Lumen or LMA airways, age and weight appropriate.

U. Portable sharps container.

V. Pediatric length/weight-based drug dose chart or tape.

Section 703. Minimum Ambulance Rescue Equipment.
The following additional items will be carried by each ambulance:

A. Hammer, one four pound with 15 inch handle.

B. One axe.

C. Wrecking Bar, minimum 24-inch (bar and two preceding items can either be separate or combined as a forcible entry tool).

D. Crowbar, minimum 48”, with pinch point.

Section 704. Convalescent Transport Units.(II)

A. Convalescent transport units must meet the requirements of Section 701, minimum ambulance medical equipment, minus items C-3, H, K, M, Y.

B. Convalescent transport units are exempted from Section 703, minimum ambulance rescue/extrication equipment.

C. Convalescent transport units are required to be equipped with a radio that meets the requirements of Section 601-N (minus the PA system) whenever transporting a patient outside of its home county.

D. Convalescent transport units may not have any emergency markings, but shall display the words "Convalescent Transport" and the name of the licensee in letters a minimum of 3" in height, on each side of the ambulance.

Section 705. Special Purpose Ambulance Equipment.

A. All special purpose ambulances will be equipped with at least the following items from Section 701 of these regulations: A-1, B, C(appropriate size), D, F, G, T, U, V, W, X in addition to special purpose equipment that is documented to the Department as delineated in Section 406. Item A-1 can be replaced by a specialized patient transfer device so long as there is a provision to safely secure the device in the special purpose ambulance.

B. Special purpose equipment as documented to the Department as delineated in Section 406 of these regulations must be on the special purpose ambulance when it is in use and is subject to inventory and inspection by the Department as provided for in Section 406 of these regulations.

Section 706. EMT First Responder Equipment.

A. The First Responder Agency's vehicle must be properly marked as to identify the vehicle as an emergency vehicle.

B. The First Responder Agency will provide a minimum of one EMT-Basic for each response.

C. All first responder vehicles will be equipped with at least the following items from Section 701 of these regulations:B-2, B-3, C, D, F-1, F-3, G, H, I, J, K, L, M, N-2, N-3, O, P(3each), Q, R, S, T, W(1each), X, Y, Z, BB, CC.

D. The first responder agency must at all times be able to communicate with (a) on-line medical control, (b) dispatch center and (c) the local transporting service.

E. Equipment In Addition to 706-C To Be Carried By EMT-Intermediate First Responders.

1. Four each, 14, 16, 18 and 22 gauge IV cannulae.

2. Two Macro Drip sets.

3. Two Micro Drip sets.

4. One Sharps type container.

5. A minimum of 4 liters of normal saline or other appropriate IV solution.

6. Three Tourniquets.

7. Twelve each, Alcohol and Betadine Preps for preparing IV injection sites.

8. Five Bandaids.

F. Equipment In Addition To 706.C & E To Be Carried By EMT-Paramedic First Responders.

1. A battery powered Monitor-Defibrillator, appropriate for both adults and pediatrics, capable of producing hard copy of the patient's ECG.

2. Such drugs/fluids as may be approved by the Board for possession and administration by EMT's trained and certified in their use and authorized by the medical control physician, as documented to the Department.

G. All medical and patient care equipment used by a licensed first responder organization shall meet the same standards for cleanliness and communicable diseases as is required of transporting EMS units.

SECTION 800. SANITATION STANDARDS FOR LICENSED PROVIDERS:

Section 801. Exterior Surfaces:

A. The exterior of the vehicle shall have a reasonably clean appearance.

B. All exterior lighting should be kept clear of foreign matter (insects, road grime, etc.) to assure adequate visibility.

Section 802. Interior Surfaces Patient Compartment-Ambulance.

A. Interior surface shall be of a nonporous material to allow ease of cleaning. Carpet-type materials shall not be used on any surface of the patient compartment.

B. Floors shall be free from sand, dirt and other residue that may have been tracked into the compartment.

C. Wall, cabinet, and bench surfaces shall be kept free of dust, sand, grease, or any other accumulated surface matter.

D. Interiors of cabinets and compartments shall be kept free from dust, moisture or other accumulated foreign matter.

E. Bloodstains, vomitus, feces, urine and other similar matter must be cleaned from the unit and all equipment after each call, using an agent or hypochlorite solution described in Section 802.H.

F. Window glass and cabinet doors shall be clean and free from foreign matter.

G. A receptacle shall be provided for the deposit of trash, litter, and all used items, etc.

H. An EPA recommended germicidal/viralcidal agent or a hypochlorite solution of 99 parts water and 1 part bleach must be used to clean patient contact areas. For surfaces where such an EPA solution is not recommended, alcohol or hypochlorite solution can be used.

I. A container specifically for the deposit of contaminated needles or syringes and a second container for contaminated or infectious waste shall be provided and will be easily accessible from the patient compartment.

Section 803. Linen.

A. Storage area for clean linens shall be provided in such configuration so that linens remain dry and clean. (Ambulance)

B. Freshly laundered or disposable linens (minimum of six sets) shall be used on stretchers and pillows, and shall be changed after each patient is transported. (Ambulance)

C. Soiled linen is to be transported in a closed plastic bag or container and removed from the ambulance as soon as possible.

D. Blankets and towels shall be clean and stored in such a manner to assure cleanliness.

1. Towels shall not be used more than once between laundering.

2. Blankets shall be laundered/cleaned as they become soiled. Blankets should preferably be of a hypoallergenic material designed for easy maintenance.

Section 804. Oxygen Administration Apparatus. (II)

A. Oxygen administration devices such as masks, cannulas, and delivery tubing shall be disposable.

B. All masks and cannulas and tubing shall be individually wrapped and not opened until used on a patient.

C. Once used, the masks, cannulas and tubing is to be disposed of and not reused.

D. Oxygen humidifiers should be filled with distilled or sterile water upon use only. Reusable humidifiers must be cleaned after each use. Disposable, single use humidifiers are acceptable in lieu of multiuse types.

Section 805 Resuscitation Equipment. (II)

A. Bag mask assemblies and masks shall be stored in the original container, jump kit, or a closed compartment to promote sanitation of the unit.

B. The bag mask assembly shall be free from dust, moisture and other foreign matter.

C. Masks, valves, reservoirs and other items or attachments for bag mask assemblies shall be cleaned and sanitized after each use. A ten (10) minute sodium hypochlorite soak ninety-nine (99) parts water to one (1) part bleach, or other acceptable method shall be used.

Section 806 Suction Unit.

A. Suction hoses shall be clean and free from foreign matter. Preferably, disposable type hoses should be used.

B. Suction reservoir shall be clean and dry.

C. Suction units shall be clean and free from dust, dirt or other foreign matter.

D. Tonsil tips and suction catheters shall be of the disposable type, stored in sterile packaging until used. Tonsil tips and suction catheters shall not be reused.

E. Suction units with attachments shall be cleaned and sanitized after each use. (See Section 805.C).

Section 807. Splints.

A. Padded splints shall be neatly covered with a nonpermeable material and clean. When the outside cover of the splint becomes soiled, they should be thoroughly cleaned and replaced.

B. Pneumatic trousers, if used, shall be clean and free from dust, dirt or other foreign matter.

C. Commercial splints shall be free of dust, dirt or other foreign matter.

D. Traction splints with commercial supports shall be clean and free from accumulated material.

E. All splinting materials must be stored in such a manner as to promote/maintain cleanliness.

Section 808. Stretchers and Spine Boards.

A. Pillows, mattresses and head immobilization devices (HIDs) shall be covered with a nonpermeable material and in good repair.(Single use items exempt.)

B. Stretchers, pillows, HIDs and spine boards shall be clean and free from foreign material.

C. Canvas or neoprene covers on portable type stretchers shall be in good repair.

D. All restraint straps/devices shall be kept clean and shall be washed immediately if soiled.

E. Wooden spine boards shall be sealed with an appropriate substance to facilitate cleaning.

F. All spine boards shall be free from rough edges/areas that may cause splinters.

Section 809. Bandages and Dressings.(II)

A. Bandages need not be sterile, but they must be clean. They should be individually wrapped, or stored in a closed container or cabinet to insure cleanliness.

B. Dressings must be sterile, individually packaged and sealed, and stored in a closed container or compartment. If the seal is broken or wrap is torn, the dressing is to be discarded.

C. Dressings or burn sheets that are not commercially wrapped must be sterilized in an autoclave or gas sterilizer, with the date of sterilization shown on each item. Items with a sealed plastic dust cover may remain on the unit no longer than six months without being resterilized or rotated with other sterile equipment. Cloth covered items must be resterilized or rotated at least every thirty (30) days.

D. Triangular bandages must be washed after each use if not the disposable type.

E. All bandages or dressings that have been exposed to moisture or otherwise have become soiled must be replaced.

Section 810. Obstetrical Kits.(II)

A. All OB kits must be sterile and wrapped with cellophane or plastic. If the wrapper is torn or the kit is opened but not used, the items in the kit that are not individually wrapped must be resterilized or discarded and replaced.

B. OB kits that are not commercially wrapped must be sterilized in an autoclave or gas sterilizer with a date of sterilization shown on the item. Items with a sealed plastic cover may remain on the unit no longer than six months without being resterilized or rotated at least every thirty (30) days.

Section 811. Oropharyngeal Appliances.(II)

Instruments inserted into a patient's mouth or nose shall be single service, individually wrapped and stored properly. Oropharyngeal airways designed for multi use shall be sterilized in an autoclave or gas sterilizer, Cidex or sodium hypochlorite soak (ninety-nine (99) parts water to one (1) part bleach) and individually wrapped.

Section 812. Communicable Diseases.(II)

A. When an ambulance or transport vehicle has been utilized in the transport of a patient known to have a communicable disease, the vehicle must be taken out of service until cleaning and disinfecting is completed.

B. Linen must be removed from the stretcher and properly disposed of, or immediately placed in a plastic bag or container and sealed until properly cleaned.

C. Patient contact areas, equipment and any surface soiled during the call, must be cleaned in accordance with Section 802.H of these guidelines.

Section 813. Miscellaneous Equipment.

Miscellaneous equipment such as scissors, stethoscopes, BP cuffs and/or other items used for direct patient care should be cleansed as they become soiled. Items should be kept clean and free from foreign matter.

Section 814. Equipment and Materials Storage Areas.

Equipment not used in direct patient care shall be in storage spaces that prevent contamination/damage to direct patient care equipment or materials.

Section 815. Personnel.

A. All personnel functioning on the vehicle shall present themselves in a clean, neat appearance at all times.

B. Hands and forearms should be thoroughly washed according to Standard 1910.1030 set forth by the Occupational Safety and Health Administration (OSHA).

C. Uniforms/clothing should be neat, clean or changed if they become soiled or exposed to vomitus, blood or other foreign matter.

SECTION 900. TRAINING AND CERTIFICATION.

Section 901. Emergency Medical Technician Training Programs.(II)

A. Emergency Medical Technician-Basic Training Program - This program is established by the Department and is only conducted in approved local technical colleges, colleges, vocational schools, and regional EMS training offices. The curriculum for this training program is the Department of Transportation curriculum for EMT's or any other curriculum approved by the Department.

B. Emergency Medical Technician-Intermediate Training Program - This program is established by the Department to provide a level of care between the basic and Paramedic programs and is only conducted in approved local technical colleges, colleges, vocational schools, and regional EMS training offices. The curriculum for this training program is the Department of Transportation curriculum for EMT-Intermediate or any other curriculum approved by the Department.

C. The Emergency Medical Technician-Paramedic Training Program - The curriculum for this training program is the Department of Transportation curriculum for EMT-Paramedic or any other EMT-Paramedic training program as developed or established and approved by the Department and is only conducted in approved local technical colleges, colleges, vocational schools, and regional EMS training offices.

D. Candidates may complete their required refresher training program by one of the following methods:

1. Complete the state approved EMT-Basic, EMT-Intermediate, or EMT-Paramedic refresher course as appropriate to the individual certification level, including the state approved practical and written examination.

2. Complete refresher course requirements by attending state approved C.E. unit lectures and/or seminars that equate to the regular structured refresher courses, including the state approved practical and written examination.

3. Complete the state approved in-service training program that meets the requirements of the Department, including the state approved practical and written examination. In-service training program requirements include, medical control physician participation and supervision of the service's program. Participation includes development of the service's in-service training program to meet the Department requirements and the needs of the individual service.

4. EXCEPTIONS - Candidates may exempt the state written and/or practical examinations if they meet the following criteria:

a. Candidates that complete the state approved in-service program may, if otherwise qualified, exempt the practical examination if the medical control physician signs a statement indicating the individual is competent in all the skills published by the Department for the level of EMT certification the candidate is recertifying. Candidates may also exempt the written examination if the medical control physician signs a statement indicating they are knowledgeable, proficient, and capable of performing all of the duties for the level of EMT certification they are recertifying.

b. Candidates that are nationally reregistered may exempt the state written and practical examinations.

E. Criteria for Special Purpose EMT. In order to be issued a valid special purpose EMT certificate, one must meet all of the following criteria:

1. The special purpose EMT must be a registered nurse.

2. The special purpose EMT must have completed an acceptable training program for delivery of the special area or possess experience in that special care area satisfactory to the Department.

3. The special purpose EMT must be employed by the medical service which utilizes the special purpose ambulance and recommended by the director of the medical service which utilizes a special purpose ambulance.

4. The medical service by which the special purpose EMT is employed must have operational procedures and medical protocols directing the daily operations of the special purpose EMT and special purpose ambulance. These medical protocols must be in written form, approved and signed by the director of the medical service in order for the special purpose EMT to administer medical treatment required by the protocols.

F. Pilot Programs. The Department may authorize providers to initiate pilot programs which provide training in new and innovative procedures that have potential for lifesaving care. Those who wish to initiate a pilot program must provide in writing to the Department a detailed proposal of the program and any supporting materials. Under no circumstances shall pilot programs be initiated without prior approval by the Department. The EMT's who participate in these programs are allowed to perform the pilot procedures, under medical control physician supervision, during the period of the pilot program. At the conclusion of the pilot program a report must be submitted to the Department describing the outcome/results of the program. Research gained from the pilot programs will be used to revise and upgrade existing EMT programs and scope of practice.

G. Department approved Advanced Training Centers in existence prior to the effective date of these regulations shall continue to provide EMT training in accordance with the provisions of this article.

Section 902. Certification.(I)

A. No persons shall act or serve in the capacity of primary patient care attendant in an ambulance without first completing, minimally, an approved Emergency Medical Technician-Basic Training Program and holding a South Carolina certificate as an emergency medical technician-Basic. Emergency medical technician-Basic certificates are in force for three years and are subject to renewal before expiration date if the candidate continues to meet state qualification. Certified emergency medical_technician-Basic may perform those functions taught in the approved EMT Basic curriculum. Emergency medical technician-Basic certificates may be issued to eligible personnel, eighteen years of age or older, upon the satisfactory completion of any of the following requirements:

1. Any person completing the Department approved "Emergency Medical Technician-Basic Course" (to include examination), or . . .

2. Any person who has successfully passed the written and practical portions of the "National Registry of Emergency Medical Technician-Basic" examination and other requirements established by the Department, and is currently registered, (applies to initial State certification only) "These candidates are exempt from the state practical and written certification examinations," or . . .

3. Any person who receives comparable training within three years of their application. Comparable course credit may be determined by submitting copies of course certification and content to the Department for review. Comparable course credit is normally allotted to selected individuals completing extensive emergency courses, such as RNs and United States armed forces medical personnel. These personnel must complete and pass the appropriate state approved refresher course and satisfactorily pass the State or National Registry approved practical and written emergency medical technician examinations.

4. Special Purpose EMT Qualifications. The Department may issue a valid special purpose EMT certificate to those registered nurses who are both extensively trained in a particular special area of care and approved by the Department to attend patients needing that particular care while being transported in special purposes ambulances. These special purpose EMT's may be assisted by other health professionals who are determined qualified and approved by the Department to assist in attendance of the patient during transportation in a special purpose ambulance.

B. Emergency Medical Technician-Intermediate or Paramedic - No person shall act in the capacity of an emergency medical technician-Intermediate or Paramedic without satisfactorily completing an approved emergency medical technician Intermediate or Paramedic training course and holding a South Carolina certificate. EMT-Intermediate or Paramedic certificates are in force for three years and subject to renewal if the candidate continues to meet State qualifications. Appropriate certificates will be issued to candidates who satisfactorily complete an EMT-Intermediate or Paramedic program approved by the Department.

C. Guidance for EMT's - All currently certified emergency medical technicians may only "engage in those practices for which they have been trained" in the state approved curriculum and for which the supervising physician will assume responsibility. In all cases, an EMT will perform procedures under the supervision of a physician licensed in the State of South Carolina. Means of supervision should be direct, by standing orders or by radio and telephone communications.

D. Emergency medical technicians (Intermediate and Paramedic levels only) whose certificates have expired may be reactivated by the candidate completing an appropriate EMT refresher course and submitting an application for certification prior to taking state examinations. Emergency medical technicians at the Basic level whose certificate has expired may only be reactivated by completing all necessary requirements to become Nationally Registered.

E. Emergency medical technician must notify the Department each time they have change of address and furthermore, provider associated EMT's will provide their correct address on the personnel roster required in Section 401.A.5 of these regulations each time their provider submits a license or relicensure application.

F. All initial EMT certifications (Basic, Intermediate, Paramedic) must maintain a National Registry credential to be certified and recertified in South Carolina.

G. The Department may deny certification to applicants with certain past felony convictions and to those who are under felony indictment. Applications for certification of individuals convicted of or under indictment for the following crimes will be denied in all cases*:

1. Felonies involving criminal sexual conduct;

2. Felonies involving the physical or sexual abuse of children, the elderly, or the infirm including, but not limited to, criminal sexual misconduct with a child, making or distributing child pornography or using a child in a sexual display, incest involving a child, assault on a vulnerable adult;

3. A crime in which the victim is a patient or resident of a healthcare facility, including abuse, neglect, theft from, or financial exploitation of a person entrusted to the care or protection of the applicant.

*Applications from individuals convicted of, or under indictment for, other offenses not listed above will be reviewed by the Department on a case by case basis.

Section 903. Application for Certification as an Emergency Medical Technician-Basic.

A. Applications for certification as an Emergency Medical Technician-Basic in South Carolina are to be submitted to the Department, indicating that the student has satisfactorily completed the required curriculum to include any required clinical experience. Reciprocity candidates must provide a copy of their out-of-state certificate that has at least six months remaining on it prior to its expiration date, and have met other requirements as established by the Department. Candidates holding an out of state certificate will be issued a provisional South Carolina certification that expires on the date of their out-of-state certificate, or up to but not exceeding 1 year, whichever is less. During their provisional status, the candidate must become Nationally Registered to be recertified in South Carolina. National Registry candidates requesting initial reciprocity will receive a South

Carolina Certification, providing they have a certificate that has at least six months remaining on it prior to its expiration date and have met other requirements as established by the Department.

B. Upon receipt of the completed application, practical and written examinations will be given at such times as will be scheduled by the Department. An emergency medical technician-Basic certificate will be issued by the Department upon satisfactory completion of the state approved practical and written examinations, and will be effective for three years from the date of issue. A pocket ID card will be issued along with the Basic certificate and must be in the possession of the EMT-Basic at all times that patient care is rendered.

Section 904. Application for certification as an Emergency Medical Technician-Intermediate or Paramedic.

A. Applications for certification as an EMT-Intermediate or Paramedic in South Carolina are to be submitted to the Department, using forms provided by the Department as follows:

1. Candidates completing a South Carolina approved course must provide a certificate application card that indicates satisfactory completion of the course.

2. Candidates applying for certification by reciprocity must provide a certificate application card along with a copy of their out-of-state certificate that has at least six months remaining on it prior to its expiration date and have met other requirements as established by the Department. They must also provide statements from a South Carolina licensed provider and the unit medical control physician indicating sponsorship. Candidates holding an out of state certificate will be issued a provisional South Carolina certification that expires on the date of their out-of-state certificate, or up to but not exceeding 1 year, whichever is less. During their provisional status, the candidate must become Nationally Registered to be recertified in South Carolina. National Registry EMT-Intermediate or Paramedic candidates requesting reciprocity, will receive a South Carolina certification providing they have a certificate that has at least six months remaining on it prior to its expiration date and have met other requirements as established by the Department.

B. Candidates that meet the requirements in "A." above will be permitted to take the state approved examinations. Candidates that pass the state approved examinations will then be issued an intermediate or paramedic EMT certificate as appropriate by the Department which will be effective for three years. A pocket ID card will be issued along with the EMT-Intermediate or Paramedic certificate and must be in the possession of the EMT-Intermediate or Paramedic at all times that patient care is rendered.

Section 905. Recertification as a Emergency Medical Technician-Basic.

A. Recertification as an emergency medical technician-Basic within a 12-month period prior to the expiration date of the EMT-Basic certificate, each emergency medical technician-Basic is required to submit an application for recertification, indicating completion of an approved EMT-Basic refresher course, CEUs or state approved in-service training program, to qualify for recertification. Upon receipt of this application, the Department will schedule and conduct the practical and written examination, as necessary. Upon satisfactory completion of the practical and written examinations, the Department will extend the individual's EMT-Basic certification for another three-year period of time.

B. All initial EMT certifications (Basic, Intermediate, Paramedic) must maintain a National Registry credential to be certified and recertified in South Carolina.

Section 906. Recertification as an EMT-Intermediate or Paramedic.

Each EMT-intermediate or paramedic must do the following prior to their certificate expiring in a three-year period:

A. Submit an application for recertification to the Department requesting recertification. Application to include:

1. Signed statement from licensed provider’s medical control physician indicating he will sponsor and supervise the candidate.

2. Signed statement from the licensed provider’s director indicating the candidate is a functioning member of the service. Provides documentation that he has the required continuing education points, refresher course completion certificate or in-service EMT training completion record as appropriate.

3. Pass the state practical and written examination. Candidates completing in-service training may with concurrence of the medical control physician, exempt the practical and/or written state examinations.

B. Upon successful completion of the above requirements, the Department will renew the applicant's EMT-intermediate or paramedic certificate, as appropriate, for another three-year period.

C. All initial EMT certifications (Basic, Intermediate, Paramedic) must maintain a National Registry credential to be certified and recertified in South Carolina.

Section 907. Emergency Medical Technician Course Approval Regulations.(II)

A. All EMT courses at all levels, conducted by EMS regional offices or local technical colleges or vocational centers, or colleges must be taught by EMT instructors certified and approved by the Department for the level they are teaching.

B. All EMS training institutions must receive prior approval from the Department prior to starting any course.

C. All licensed providers who wish to conduct approved in-service training program must receive prior approval of the Department and follow the established guidelines of the program.

Section 908. Emergency Medical Technician Instructor Training Programs and Certification.

A. The Department is responsible for the review and approval of all EMT instructor courses. Instructors that meet the requirements and satisfactorily complete the Department approved instructor's course, will be certified by the Department. Certification will coincide with the EMT certification date.

B. Emergency Medical Technician - Basic Instructor Training Program and Authorization.
Requirements for authorization as an initial EMT-Basic instructor are as follows:

1. Be twenty-one years of age or older with a high school diploma or GED.

2. Must be currently certified Paramedic with 1 year of experience as an EMT-Paramedic.

3. Complete the Department approved EMS instructor course.

4. Be recommended by a teaching institution that sponsors EMT-Basic courses.

5. Provide the Department with an approved and current CPR instructor card.

6. Meet all other requirements as determined by the Department.

C. The Department is responsible for certification of EMT-Intermediate and Paramedic Instructors who must meet the following qualifications:

1. Be a registered nurse with experience and knowledge in critical care areas; OR
be a current South Carolina and Nationally Registered EMT-Paramedic with 5 years experience, high school or GED, and be twenty-one years of age or older.

2. Meet all instructor requirements in areas such as Pediatrics, Trauma and Cardiology as determined by the Department.

3. Be recommended by a teaching institution that sponsors EMT-Intermediate or Paramedic courses.

4. Provide the Department with a copy of an approved and current CPR instructor card.

5. Meet all other requirements as determined by the Department.

6. Complete the Department approved EMS instructor course.

D. Instructor certificates may be renewed as follows:

1. Must provide a letter of endorsement from the teaching institution.

2. Be currently certified as a South Carolina and Nationally Registered EMT-Paramedic.

3. Provide the Department with a copy of an approved and current CPR instructor card.

4. Have met all teaching requirements as determined by the Department.

5.Participate in 12 hours of Department approved continuing education in Instructor Methodology during the 3 year certification period.

6. Meet all other requirements as determined by the Department.

E. An EMT Instructor authorization may be suspended or revoked for any of the following reasons:

1. Any act of misconduct as outlined in SECTION 1100 of these regulations.

2. Suspension or revocation of the holder's EMT certificate.

3. Failure to maintain required credentials necessary for instructor designation.

4. Any act of proven sexual harassment toward another instructor or candidate.

5. Use of profane, obscene or vulgar language while in the presence of candidates or the EMT program coordinator during the context of class or related functions.

6. Conducting class without the minimum required equipment available and in working condition.

7. The use of any curricula not approved by the Department.

8. Gross or repeated violations of policy pertaining to the EMT training program.

9. Multiple instructor reprimands within a given period of time as established by the Department.

10. Any other actions determined by the Department that compromises the integrity of the program. Those actions may include, but are not limited to the following:

a. An instructor who places himself/herself in a situation which will embarrass or bring unfavorable notoriety to himself/herself or the training institution.

b. Unprofessional behavior in the classroom.

c. Failure to notify the EMT program coordinator when classes must be cancelled or rescheduled.

d. Consistently starting class late or dismissing class early.

e. Conducting classes while under the influence of alcohol.

f. Conducting classes while under the influence of drugs that negatively impair your ability to instruct (prescribed, non-prescribed, or illegal).

g. Falsification of any documents pertaining to the course. (attendance logs, equipment checklists, etc.)

h. Repeated poor class results on the written and/or practical portion(s) of candidate examinations.

SECTION 1000. PERSONNEL REQUIREMENTS.(I)

A. During the transportation of patients, there shall be an emergency medical technician-Basic, intermediate or paramedic in the patient compartment at all times. The crew member with the highest level of certification shall determine which crew member will attend the patient during transport. If advanced life support procedures are in use, the responsible EMT-intermediate or paramedic shall attend the patient in the patient compartment during transport.

B. Exception: Transferring or receiving medical facilities registered nurses are authorized as ground ambulance attendants when assisting emergency medical technicians in the performance of their duties when all of the following requirements are met:

1. The medical care of the patient is beyond the limit of certification of the EMT.

2. When the ambulance transport is between medical facilities or from medical facility to patient's home.

3. When the responsible physician, transferring or receiving, assumes responsibility of the patient and provides appropriate orders, written preferred, to the registered nurse for patient care.

4. The registered nurse is on duty with the appropriate medical facility during the ambulance transport.

C. No person under the age of eighteen shall operate any emergency vehicle owned or operated by the licensed provider.

D. No person shall act or serve in the capacity of attending a patient while under felony indictment or with certain past felony convictions as listed in Section 902.G of these regulations.

E. All licensed providers must notify the Department immediately should they become aware of a felony indictment or conviction of any person on their roster.

SECTION1100. REVOCATION OR SUSPENSION OF CERTIFICATES OF EMERGENCY MEDICAL TECHNICIANS (I)

A. The Department shall, upon receiving a complaint of misconduct as herein defined, initiate an investigation to determine whether or not suitable cause exists to take action against the holder of an emergency medical technician certificate.

1. The initial complaint shall be in the form of a brief statement, dated and signed by the person making the complaint, which shall identify the person or service who is the subject of the complaint and contain a summary as to the nature of the complaint. The Department is also authorized to initiate an investigation based upon information acquired from other sources.

2. Information received by the Department through inspection, complaint or otherwise authorized under S.C. Code, Section 44-61-10, *et.seq.*, shall not be disclosed publicly except in a proceeding involving the question of licensing, certification or revocation of a license or certificate.

B. "Misconduct," which constitutes grounds for a revocation or suspension or other restriction of a certificate, shall be a satisfactory showing of any of the following:

1. That a false, fraudulent, or forged statement or document has been used, or any fraudulent, deceitful, or dishonest act has been practiced by the holder of a certificate in connection with any of the certification requirements or official documents required by the Department.

2. That, while holding a certificate, the holder is convicted of a felony or any other crime involving moral turpitude, drugs, or gross immorality.

3. That the holder of a certificate is addicted to alcohol or drugs to such a degree as to render him unfit to perform as an EMT.

4. That the holder of a certificate has sustained any physical or mental disability which renders further practice by him dangerous to the public.

5. That the holder of a certificate is guilty of obtaining fees or assisting obtaining such fees under dishonorable, false or fraudulent circumstances.

6. That the holder of a certificate is guilty of disregarding an appropriate order by a physician concerning emergency treatment and transportation.

7. That the holder of a certificate has, at the scene of an accident or illness, refused to administer emergency care on the grounds of age, sex, race, religion, creed or national origin of the patient.

8. That the holder of a certificate has, after initiating care of a patient at the scene of an accident or illness, discontinued such care or abandoned the patient without the patient's consent or without providing for the further administration of care by an equal or higher medical authority.

9. That a holder of a certificate has revealed confidences entrusted to him in the course of medical attendance, unless such revelation is required by law or is necessary in order to protect the welfare of the individual or the community.

10. That the holder of a certificate has, by action or omission and without mitigating circumstance, contributed to or furthered the injury or illness of a patient under his care.

11. That the holder of a certificate is guilty of the careless, or reckless, or irresponsible operation of an emergency vehicle.

12. That the holder of a certificate is guilty of a breach of any section of the Emergency Medical Services Act of South Carolina (Act 1118 of 1974) or any subsequent amendment of the Act or any of the Rules and Regulations published pursuant to the Act.

13. That the holder of a certificate has performed skills above the level for which he was certified or performed skills that he was not trained to do.

14. That the holder of a certificate did allow sub-standard care to be administered by another individual without documenting a supervisor being notified.

15. That the holder of a certificate has, by his actions, or inactions, created a substantial possibility that death or serious physical harm could result therefrom.

16. That the holder of a certificate has not taken or completed remedial training or other courses of action as directed by the Department as a result of an investigation.

17. That the holder of a certificate is found to be guilty of the falsification of any documentation as required by the Department.

C. The suspension or revocation of the emergency medical technician certificate shall include all levels of certification.

SECTION 1200. AIR AMBULANCES

Section 1201. Licensing.(I)

It shall be unlawful for any ambulance service provider, agent or broker to secure or arrange for air ambulance service originating in the State of South Carolina unless such ambulance service meets the provisions of South Carolina Emergency Medical Services Law and Regulations.

A. Air Ambulance Licensing and Insurance Requirements:

1. Air ambulance licensing procedures are contained in Section 400 of these regulations. Air ambulance permit procedures are contained in Section 500 of these regulations. A permit is required for each aircraft.

2. As part of the licensing procedure, every air ambulance operator shall carry an air ambulance insurance policy. This policy shall cover malpractice**,** bodily injury and property damage with solvent and responsible insurers licensed to do business in the State of South Carolina. This policy shall provide payment for any loss or damage resulting from any occurrence arising out of or caused by the medical treatment or operation or use of any of the operator's aircraft. Each aircraft shall be insured for the sum of at least $1,000,000 for injuries to or death of any one person arising out of any one incident and the sum of at least $3,000,000 for injuries to or death of more than one person in any one incident. In addition, the provider shall carry at least $500,000 malpractice insurance. Every insurance policy or contract for such insurance shall provide for the payment and satisfaction of any

financial judgment entered against the operator and present insured, or any person flying the insured aircraft. All such insurance shall provide for thirty-day cancellation notice to the Department.

B. Out-of-State Air Ambulances.

1. Out-of-state air ambulances transporting patients from locations in South Carolina must be licensed in their home state, if applicable. The medical attendant must be a basic or advanced EMT or have flight nurse who is certified in the home-ported state.

2. Out-of-state air ambulances operating in a state where no license is available must obtain a license in South Carolina and meet all requirements in Section 1200.

C. Air Ambulance Categories:

1. Interfacility Transport. Air ambulance services that transport patients receiving definitive care within the medical care system are those services which provide inter hospital, medical facility to hospital, hospital to other facility, or similar transports where the patients involved are transported from a definitive care medical setting. These transports may be accomplished by fixed-wing or rotary wing aircraft, and range from the transport of a critically ill patient requiring a sophisticated aircraft equipped with special care facilities, staff and supplies to the transport of a patient who has no special medical requirements. It is the responsibility of the medical director to insure that the level of patient care required in any given transport is adequate for that patient's medical needs.

2. Prehospital Transport. Air ambulance services that transport patients in the prehospital setting will be permitted as either an advanced or basic life support service and each prehospital service shall be required to meet the requirements and be licensed accordingly. Each such service shall contract with a medical control physician.

3. Special Purpose Ambulance. Air ambulances that meet the special purpose ambulance requirements.

D. Air Ambulance Aircraft Requirements. The aircraft operator shall, in all operations, comply with all federal aviation regulations which are adopted by reference, Part 135. The aircraft shall meet the following specifications:

1. Be configured in such a way that the medical attendants have adequate access for the provision of patient care within the cabin to give cardiopulmonary resuscitation and maintain patient's life support.

2. Allow loading of a supine patient by two attendants.

3. Have appropriate communication equipment to insure both internal crew and air to ground exchange of information between individuals and agencies appropriate to the mission, including at least medical control, air traffic control, and navigational aids.

4. Be equipped with radio headsets that insure internal crew communications and transmission to appropriate agencies.

5. Have adequate interior lighting, so that patient care can be given and patient status be monitored without interfering with the pilot's vision.

6. Have hooks and/or appropriate devices for hanging intravenous fluid bags.

7. Helicopters must have an external landing light and tail-rotor illumination.

8. Design must not compromise patient stability in either loading, unloading or in-flight operations.

9. Have factory installed or FAA approved add-on air conditioning which has the capacity to lower the temperature in the patient's compartment to 75^0 F within a reasonable period and maintain that temperature while operating in an ambient temperature of 95^0 F. All parts, equipment, workmanship, etc., shall be in keeping with accepted air conditioning practices.

E. Aircraft Flight Crew Manning Requirements. The aircraft operator shall, in all operations, comply with all federal aviation regulations which are adopted by reference, Part 135.

1. Rotor craft:

a. The pilot must possess commercial rotor craft certification and a minimum of 1,000 rotor craft flight hours as pilot in command and 50 hours of pilot in command flight time in helicopters within the 12 months prior to application for permitted air ambulance certification. Of this time during which the pilot is in command (referred to as "pilot in command time"), 25 hours must be in the same make and model of aircraft to be used in the proposed air ambulance operation.

b. The pilot must have received factory training or equivalent and must have at least five hours in the specific type of aircraft, before flying as pilot in command on patient missions.

c. The pilot must have received factory training or equivalent in flying over the types of terrain and under the conditions unique to the air ambulance flight program.

d. The pilot must be readily available within a defined call-up time to insure an expeditious and timely response.

e. The helicopter mechanic is vital to mission readiness and, as such, should possess at least two years of experience and must be a certified air frame and power plant mechanic.

f. The mechanic must be properly trained and FAA certified to maintain the aircraft designed by the flight service for its aeromedical program.

2. Fixed-Wing:

a. The pilot must possess a commercial pilot airplane license with a multi-engine land rating and a minimum of 1,000 flight hours as pilot in command and 50 hours of pilot in command flight time in multi-engine airplanes within the 12 months prior to application for permitted air ambulance certification.

b. If flying IFR, the pilot must possess an aircraft instrument rating with a minimum 50 hours of instrument flying time, to include no more than 20 hours in a ground simulator acceptable to the FAA.

c. The pilot must have received factory training or equivalent and must have at least five hours in the specific type of aircraft, before flying as pilot in command on patient missions.

d. The pilot must be readily available within a defined call-up time to insure an expeditious and timely response.

e. The mechanic is vital to mission readiness and must be a certified air frame and power plant mechanic.

f. The mechanic must be properly trained and FAA certified to maintain the aircraft designated by the flight service for its aeromedical program.

F. Off-Line Medical Control Physician (Medical Director). The off-line medical control physician of air ambulance services shall be responsible for:

1. Being knowledgeable of the capabilities and limitations of the aircraft used by his service.

2. Being knowledgeable of the medical staff's capability relative to the patient's needs.

3. Being knowledgeable of the routine and special medical equipment available to the service.

4. Ensuring that each patient is evaluated prior to a flight for the purpose of determining that appropriate aircraft, flight and medical crew and equipment are provided to meet the patient's needs.

5. Ensuring that all medical crew members are adequately trained to perform in-flight duties prior to functioning in an in-flight capacity.

6. All duties and responsibilities listed in these regulations.

G. Aircraft Medical Crew Requirements:

1. Each basic life support air ambulance must be staffed with at least one currently certified EMT.

2. Each advanced life support air ambulance must be staffed with at least one currently certified EMTParamedic or flight nurse as may be required by the patient's condition.

3. Each special purpose air ambulance must be staffed with at least one special purpose EMT, EMTParamedic or RN with specialty training, as approved by the Department.

H. Orientation Program:

1. All medical flight crew members must complete flight orientation program approved by the Department and supervised by the service's medical control physician.

2. The flight orientation program shall be of sufficient duration and substance to cover all patient care procedures, including altitude physiology, and flight crew requirements.

Section 1202. Basic Life Support Air Ambulance Medical Equipment Requirements.(II)

Each prehospital basic life support air ambulance shall be equipped with the following basic life support equipment:

A. There shall be one vinyl covered folding stretcher or acceptable equivalent with at least two patient restraint straps and stretcher fasteners for each patient (spine board is not acceptable). Stretcher fasteners must be bolted directly on the air frame of the aircraft.

B. Suction Device:

1. A portable suction device, age and weight appropriate, with wide bore tubing and at least a six ounce reservoir.

2. There must be an assortment of suction catheters (minimum of two each) on board. Sizes 6 fr, 8 fr, 10 fr, and 14 fr. A rigid suction catheter (e.g. Yankaur) will also be carried. Minimum, 2 each.

C. Bag Valve Ventilation Units:

1. One adult, hand operated. Valves must operate in all weather, and unit must be equipped to be capable of delivering 90-100% oxygen to the patient.

2. One pediatric, hand operated. Valves must operate in all weather and unit must be equipped to be capable of delivering 90-100% oxygen to the patient. Must include safety pop-off mechanism with override capability.

3. One infant, hand operated. Valves must operate in all weather and unit must be equipped to be capable of delivering 90-100% oxygen to the patient. Must include safety pop-off mechanism with override capability.

4. The following sized masks will be carried aboard all permitted ambulances to be used in conjunction with the ventilation units above, 0,1,2,3,4,5. Masks must be clear. Either the disposable or nondisposable types are acceptable.

D. Nonmetallic oropharyngeal (Berman type)/Nasopharyngeal airways: adult, child, and infant sizes. All airways shall be clean and individually wrapped.

1. Large adult

2. Medium adult

3. Large child

4. Child

5. Infant

E. "S" tube type airways may not be substituted for Berman type airways.

F. Fixed and portable oxygen equipment - The portable equipment should be: Minimum "D" size (360 liter) cylinder (one required), adequate tubing and semirigid valveless, transparent, single use, individually wrapped nonrebreather masks and nasal cannulas in adult and pediatric sizes, minimum of three each. In addition, a "No Smoking" sign with minimum one inch letter shall be displayed in the patient compartment. When the vehicle is in motion, all oxygen cylinders shall be affixed to a wall or floor with crash stable, quick release fittings. Liter flow gauge shall be non- gravity dependent (Bourdon gauge) type.

G. Bite stick commercially made. (Clean and individually wrapped.)

H. Six sterile dressings (minimum size 5"x 9") compactly folded and packaged.

I. Thirty-six each sterile gauze pads 4"x 4".

J. Four each bandages, self-adhering tape, minimum three inches by five yards. Bandages must be individually wrapped or in clean containers.

K. A minimum of four commercial sterile occlusive dressing, 4"x 4".

L. Adhesive tape, hypoallergenic, one, two, and three inches wide.

M. Burn sheets, two, sterile.

N. Splints:

1. Traction type, lower extremity splint. Uni-polar or bi-polar type is acceptable (Medical Control Option).

2. Padded, wooden type splints, two each, 15"x 3" and 36"x 3", or other approved commercially available splints for arm or leg fractures.

3. Pneumatic splints not acceptable.

O. Spine Boards:

1. Long, at least 16"x 72". (The use of folding backboards is acceptable as a substitute for the long spine board.) (Medical Control Option)

2. Cervical collars. Small, medium, and large. (Each cervical collar should be manufactured with rigid or semi-rigid material) (Medical Control Option)

P. Triangular bandages, four each.

Q. Nine foot straps, three required.

R. Bandage shears, large size.

S. Obstetrical kit, sterile. The kit shall contain gloves, scissors or surgical blades, umbilical cord clamps or tapes, dressing, towels, perinatal pad, bulb syringe and a receiving blanket for delivery of infant. (Medical Control Option)

T. Blood pressure manometer, cuff and stethoscope.

1. Blood pressure set, portable, both adult and pediatric (non mercurial type).

2. Stethoscopes.

U. Emesis basin.

V. Bedpan and urinal. (Medical Control Option)

W. Two dependable flashlights or electric lanterns, minimum size, two "D" cell or six volt lanterns.

X. Minimum of one fire extinguisher, clean agent type, five pound capacity.

Y. Working gloves. (Medical Control Option)

Z. Minimum of 1000 cc of sterile water or normal saline for irrigation.

AA. Dual Lumen or LMA airways, age and weight appropriate.

BB. Magill forceps.

1. Adult.

2. Pediatric.

CC. Flame retardant uniform with reflective striping to be worn by each crew member.

Section 1203. Interfacility and Special Purpose Air Ambulances. (II)

All inter facility and special purpose air ambulances must be equipped with at least the following items from Section 1202:A, B, C, D, F, G, T, U, V, W, and X.

Section 1204. Advanced Life Support Air Ambulance Medical Equipment Requirements. (II)

Air ambulances providing advanced life support in the prehospital, interfacility or special purpose category must have the following equipment and supplies on board in addition to Section 1202:

A. Battery powered (DC) portable monitor-defibrillator unit, appropriate for both adults and pediatrics, with ECG printout. The monitor-defibrillator equipment utilized by the service has the capability of producing hard copy of patient's ECG.

B. Butterfly or scalp vein needles 26 gauge, total of two.

C. Two each 14, 16, 18, and 20 gauge IV cannula.

D. Two macro drip sets.

E. Two micro drip sets.

F. Three 21 or 23 and three 25 gauge needles, total six.

G. Three tourniquets.

H. Laryngoscope handle with batteries.

I. Laryngoscope blades, adult, child, and infant sizes. Sizes must include 0,1,2 straight and #2 curved.

J. Six disposable endotracheal tubes, assorted sizes (2.5-9.0). An intubation stylet sized for the pediatric patient will also be carried (6 fr.).

K. Suitable equipment and supplies for collection and temporary storage of two blood samples (Medical Control Option).

L. Syringes, two 1 ml, 3 ml, 10 ml, 20ml, and one 50 ml.

M. Backup power supply for all patient care devices carried.

N. Twelve (12) alcohol and iodine preps for preparing IV injection sites.

O. One (1) roll of tape.

P. Five (5) Band-Aids.

Q. Intraosseous needles in sizes 14, 18 ga. (1 each).

R. Four liters of normal saline or other appropriate IV solution.

S. Dual lumen or LMA airways, age and weight appropriate.

T. Magill forceps.

1. Adult.

2. Pediatric.

U. Sharps container.

V. Pediatric length/weight-based drug dose chart or tape.

Section 1205. Medication and Fluids for Advanced Life Support Air Ambulances. (II)

Such drugs and fluids approved by the Board for possession and administration by EMT's, and specified by the medical control physician, will be carried on the air ambulance. Drugs not included on the approved drug list for paramedics may be carried on board the air ambulance so long as there is a written protocol which is signed and dated by the medical control physician, for the use of the drug and delineates administration only by a registered nurse or physician.

Section 1206. Rescue Exception. (II)

A non-permitted aircraft may be used for occasional non routine missions, such as the rescue and transportation of victim/patients, who may or may not be ill or injured, from structures, depressions, water, cliffs, swamps or isolated scenes, when in the opinion of the rescuers or EMS provider present at the scene, such is the preferred method of rescue and transportation incident thereto due to the nature of the entrapment, condition of the victim, existence of an immediate life-threatening condition, roughness of terrain, time element and other pertinent factors:

A. Provided that after the initial rescue, an EMT or higher level EMS technician accompanies the victim-patient en-route with the necessary and appropriate EMS supplies needed for the en-route care of the specific injuries or illness involved.

B. Provided the aircraft is of adequate size and configuration to effectively make the rescue and to accommodate the victim-patient, attendant(s) and equipment.

C. Provided reasonable space is available inside the aircraft for continued victim-patient comfort and care.
D. Provided a permitted aircraft is not available within a reasonable distance response time; and

E. Provided the victim-patient is transferred to a higher level of EMS ground transportation for stabilization and transport if such ground unit is available at a reasonably safe landing area.

SECTION 1300. PATIENT CARE REPORTS.

Section 1301. Forms Control Officer.

A. Each licensed provider that provides patient care shall appoint a forms control officer to maintain supplies, ensure safe storage, edit to ensure accuracy, and provide monthly reporting to the Department.

B. The Department must be notified of any change in forms control officer within ten (10) days.

Section 1302. Content.

A. The format/design of the patient care report must be approved by the Department, including medium to be used.

B. Patient care reports shall reflect services, treatment, and care provided directly to the patient by the provider including, but not limited to; information required to properly identify the patient, a narrative description of the call from time of first patient contact to final destination, and other information as determined by the Department.

C. All entries shall be indelibly written, authenticated by the author, and dated.

Section 1303. Report Maintenance.

A. The licensed provider shall provide accommodations, space, supplies, and equipment adequate for the protection, security, and storage of patient care reports.

B. The Department copy of the patient care report shall be maintained by the Department for a period of no less than one (1) year. Licensed providers must maintain their copy of the patient care report for no less than ten (10) years on all adult patients and thirteen (13) years for pediatric patients. Reports shall be destroyed after this time period in accordance with state and federal laws.

C. Prior to closure of business, the licensed provider must arrange for preservation of patient care reports to ensure compliance with these regulations. The provider must notify the Department, in writing, describing these arrangements within ten (10) days of closure.

D. In the event of a change of ownership, all patient care reports shall be transferred to the new owner(s).

E. The patient care report is confidential. Reports containing protected or confidential health information shall be made available only to authorized individuals in accordance with state and federal laws.

F. The Department copy of the patient care report, to include "Page 2" and supplemental forms, shall be sent to the Department on or before the fifteenth (15th) of the month following the close of a month along with a monthly summary as specified by the Department.

G. When patient care is transferred, the receiving agency shall receive their copy of the patient care report within a reasonable amount of time, preferably at the time of transfer, to ensure continuity in quality care.

H. Pursuant to Section 44-61-160 of the S.C. Code, a person who intentionally fails to comply with reporting, confidentiality, or disclosure of requirements in this section is subject to a civil penalty of not more than one hundred dollars for a violation of the first time a person fails to comply and not more than five thousand dollars for a subsequent violation.

SECTION 1400. DO NOT RESUSCITATE ORDER.

Section 1401. Purpose and Authority of Emergency Medical Services Do Not Resuscitate Order.

A. Title 44, Chapter 78 of the 1976 S.C. code as amended directs the Department to promulgate regulations necessary to provide directions to emergency medical personnel in identifying and honoring the wishes of patients who have executed a Do Not Resuscitate Order for Emergency Services. The Do Not Resuscitate Order for Emergency Services is commonly referred to as the EMS DNR law.

B. The EMS DNR law is applicable only to resuscitative attempts by EMS providers in the pre-hospital setting such as the declarant's home, a long-term care facility, during transport to or from a health care facility and in other locations outside of acute care hospitals.

C. Specific statutory authority is found in Section 44-78-65.

Section 1402. Definitions.

A. The definitions contained in S.C. Code Section 44-78-15 are hereby incorporated by reference.

B. Agent or Surrogate means a person appointed by the declarant under a Health Care Power of Attorney, executed or made in accordance with the provisions of Sec. 62-5-504 and/or Sec. 44-77-10.

C. Cardiac Arrest means the cessation of a functional heartbeat.

D. Cardiopulmonary Resuscitation or CPR means the use of artificial respirations to support restoration of functional breathing combined with closed chest massage to support restoration of a functional heart beat following cardiac arrest.

E. Department means the South Carolina Department of Health & Environmental Control.

F. Respiratory Arrest (Pulmonary Arrest) means cessation of functional breathing.

G. Do Not Resuscitate Order for Emergency Medical Services marker is a bracelet or necklace that is engraved with the patient's name, the health care provider's name and telephone number and the words "Do Not Resuscitate" or the letters DNR.

Section 1403. General Provisions.

A. The EMS DNR Form. The document which is to be a "Do Not Resuscitate Order" for EMS purposes must be in substantially the following form:

NOTICE TO EMS PERSONNEL

This notice is to inform all emergency medical personnel who may be called to render assistance to

____
(Name of patient)

that he/she has a terminal condition which has been diagnosed by me and has specifically requested that no resuscitative efforts including artificial stimulation of the cardiopulmonary system by electrical, mechanical, or manual means be made in the event of cardio-pulmonary arrest.

REVOCATION PROCEDURE

THIS FORM MAY BE REVOKED BY AN ORAL STATEMENT BY THE PATIENT TO EMS PERSONNEL, OR BY MUTILATING, OBLITERATING, OR DESTROYING THE DOCUMENT IN ANY MANNER.

Date:____________________________________

____
Patient's Signature (or Surrogate or Agent)

____
Physician's Signature

____
Physician's Address

____
Physician's Telephone Number

B. Distribution of the EMS DNR Form. The EMS DNR form, along with instructions for execution and a patient information sheet shall be distributed by the Department to health care providers. Informational pamphlets shall be prepared by the Department and made available to other interested parties upon request.

C. Location of the Executed EMS DNR Form. The executed EMS DNR Form shall be placed in a location where the document is easily observed and recognized by EMS personnel. The form shall be displayed in such a manner that it will be visible and protected at all times.

D. EMS DNR Marker. The DNR marker shall be a bracelet or necklace as approved by the Department. The marker may be worn upon the execution of the EMS DNR Document. Wearing of the marker shall not be mandatory but is encouraged. The marker will alert EMS personnel of the probable existence of the EMS DNR document. The marker shall be of metallic construction and shall be unique and easily recognizable. The marker shall contain the patient's name, the health care provider's name and telephone number and the words "Do Not Resuscitate" or the letters DNR.

Section 1404. Revocation of EMS DNR Order.

The EMS DNR Order may be revoked at anytime by the oral expression of the patient to EMS personnel or by the mutilation, obliteration or destruction of the document in any manner. If the order is revoked, EMS personnel shall perform full resuscitation and treatment of the patient.

Section 1405. Patient's Assessment and Intervention.(II)

When EMS Personnel report to a scene, they shall do a patient assessment. If an EMS DNR bracelet or necklace is found during the assessment, EMS personnel shall make a reasonable effort to determine that a EMS DNR form exists and to assure that the EMS DNR form applies to the person on which the assessment is being made. If no DNR form is found, resuscitative measure will be initiated. If after starting resuscitative measures a EMS DNR form is later found, resuscitative measure must be stopped.

Section 1406. Resuscitative Measures to be Withheld or Withdrawn.(II)

In the event that the patient has a valid EMS DNR order, the following procedures shall be withheld or withdrawn.

A. CPR

B. Endotracheal intubation and other advanced airway management

C. Artificial ventilation

D. Defibrillation

E. Cardiac resuscitation medication

F. Cardiac diagnostic monitoring

Section 1407. Procedures to Provide Palliative Treatment.(II)

The following treatment may be provided as appropriate to patients who have executed a valid EMS DNR order.

A. Suction

B. Oxygen

C. Pain medication

D. Non-cardiac resuscitation medication

E. Assistance in the maintenance of an open airway as long as such assistance does not include intubation or advanced airway management

F. Control of bleeding

G. Comfort care

H. Support to patient and family

Section 1408. DNR Information for the Patient, the Patient's Family, the Health Care Provider and EMS Personnel.(II)

A. Responsibilities of the patient or his/her Surrogate or agent.
The patient and his/her surrogate or agent shall:

1. Make all care givers aware of the location of the EMS DNR Form and ensure that the form is displayed in such a manner that it will be visible and available to EMS personnel.

2. Be aware of the consequences of refusing resuscitative measures.

3. Be aware that if the form is altered in any manner resuscitative measures will be initiated.

4. Understand that in all cases, supportive care will be provided to the patient.

B. Responsibilities of the Health Care Provider (Physician) The patient's physician:

1. Has determined that the patient has a terminal condition.

2. Has completed the patient's EMS DNR Form.

3. Has explained to the patient and family the consequences of withholding resuscitative care; the medical procedures that will be withheld and the palliative and supportive care that will be administrated to the patient.

C. Responsibilities of EMS Personnel
EMS personnel:

1. Will confirm the presence of the EMS DNR Form and the identity of the patient.

2. Upon finding an unaltered EMS DNR Form, will withhold or withdraw resuscitative measures such as CPR, endotracheal intubation or other advanced airway management, artificial ventilation, defibrillation, cardiac resuscitation medication and related procedures.

3. Will provide palliative and supportive treatment such as suctioning the airway, administration of oxygen, control of bleeding, provision of pain and non-cardiac medications, provide comfort care and provide emotional support for the patient and the patient's family.

4. Must have in his possession either the original or a copy of the DNR Order during transport of the patient.

SECTION 1500. Severability.

Section 1501. General.

In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect, as if such invalid portions were not originally a part of these regulations.

SECTION 1600. GENERAL.

Section 1601. General.

Conditions that have not been addressed in these regulations shall be managed in accordance with best practices as interpreted by the Department.

Fiscal Impact Statement:

The Department estimates no additional cost will be incurred to the state or its political subdivisions by the implementation of this amendment; therefore, no additional state funding is being requested. Existing staff and resources will be utilized to enforce the amendment to the regulations.

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: R.61-7, *Emergency Medical Services*.

Purpose of Amendment: The Department has conducted its five-year review of its regulations pursuant to S.C. Code, Section 1-23-120. R.61-7 has not been amended since 1997 and thus, the Department has amended this regulation to: bring it up to date with current statutes and practices; update and expand definitions; add enforcement action procedures to include classification of violations and guidelines for monetary penalties; update licensing procedures and requirements; update the standards for ambulance permits; update equipment lists for both ground and air ambulances; update sections related to training and certification of EMTs; add a section which provides for patient records; add a severability clause; and revise style, language and grammar for clarity, readability and consistency. See Discussion below and Statement of Need and Reasonableness herein.

Legal Authority for R.61-7 are Sections 44-61-30 (Supp.2004) and 44-78-65 (2002) of the S.C. Code.

Plan for Implementation: This amendment will take effect upon publication in the *State Register* following approval by the Board of Health and Environmental Control and the S.C. General Assembly. This amendment will be implemented by providing the regulated community with copies of the regulation and enforced through inspections and investigations by the Department.

DETERMINATION OF NEED AND REASONABLENESS OF THIS REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFIT:

R.61-7 was last amended in 1997. Section 1-23-120 of the Administrative Procedures Act requires state agencies to perform a review of their regulations every five years and update them if necessary.

This amendment is needed and reasonable in order to bring it up to date with current statutes. Several changes to statute occurred in 2004 with the successful amendment of the Emergency Medical Services Act of South Carolina including provisions to protect the public from: individuals under indictment for or convicted of certain felonies; services not maintaining proper equipment or personnel; and unauthorized disclosure of confidential health information. The amendments to this regulation shall detail the procedures necessary for services and emergency medical personnel to comply with statute.

This amendment is needed and reasonable in order to update and improve the overall quality of the regulation.

This amendment is needed and reasonable because it will clarify/add to the current regulation in a manner that will improve methods to improve quality care/treatment/services to patients.

This amendment is needed and reasonable because it will update the current regulation by incorporating certain exceptions/guidances that the Department has implemented since the last revision. For example, the state has adopted the National Registry as the certification standard for initial certification of all levels of emergency medical technicians. National Registry Standards, which adhere to the National Standard Training Curricula, are more stringent and reliable than the outdated state standards. Certification and training requirements pursuant the National Registry Standards shall be outlined in this amendment.

This amendment is needed and reasonable because it provides for the changes to Section 44-61-70 (Supp. 2004) of the S.C. Code that mandates a schedule of fines be included in R.61-7.

This amendment is needed and reasonable because it provides for enforcement actions and violation classifications that were not addressed in the previous edition of the regulation.

DETERMINATION OF COSTS AND BENEFITS: There will be no cost to the state and its political subdivisions. There will be an additional cost to the regulated community in that there will be monetary penalties incurred for violation of regulation. Those in the community who are compliant with regulation shall incur no cost.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There will be no effect on the environment. Public health will benefit in that emergency medical personnel and licensed services shall be held accountable to a higher standard.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION AMENDMENT IS NOT IMPLEMENTED: There will be no adverse effect on the public health if the revision of

the regulation is not implemented; however, the public will not receive the benefit of improved/updated standards and there shall be an inconsistency with the law.

Statement of Rationale Pursuant to S.C. Code Section 1-23-120.

Department staff, the EMS Advisory Council, and EMS Medical Control Committee determined during its review of R.61-7 that it was appropriate to revise the regulation. R.61-7 was last amended in 1997. Since that time, several changes to law, best practices, and standards have occurred. See the Statement of Need and Reasonableness above for more information regarding the factors influencing the decision to revise the regulation.

Document No. 3001
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: S.C. Code Section 48-2-10 *et seq.*

Synopsis:

The Department has amended R.61-30, *Environmental Protection Fees*, to revise the recreational waters fees to match the current budget proviso. The amount of fees in this regulation change are already being charged to the recreational waters industry and is important to keep a viable program in place. See Statements of Need and Reasonableness and Rationale herein and the Discussion below.

Section-by-Section Discussion

R.61-30.G(9)(a)(i): Construction permits for Type A, B, C, D, and F pools are increased from $200 to $400 plus an increase from $0.20 to $0.50 per square foot of surface area.

R.61-30.G(9)(a)(ii): Construction permits for Type E pools are increased from $500 to $1000 per flume.

R.61-30.G(9)(a)(iii): The fee is increased from $100 to $250 for repeat final inspections after construction is completed.

R.61-30.G(9)(b)(i): Annual operating permits for Type A, B, C, D, and F pools are increased from $100 to $125 for the first pool on each property and from $70 to $100 for each additional pool on each property.

R.61-30.G(9)(b)(ii): Annual operating permits for Type E pools are increased from $70 to $100 per flume or water course.

Instructions: Delete existing R.61-30.G.9 and replace it in entirety with this amendment pursuant to the instruction below.

Text:

Replace R.61-30.G.9 to read:

R.61-30.G.9

(9) Public Swimming Pool Fees.

(a) Construction Permits.

(i) Type "A", "B", "C", "D", and "F" Pools - $400 plus $0.50 per square foot of surface area.

(ii) Type "E" Pools - $1,000 per flume (including minimum required design landing area) or water course, to include water slide. Additional area above minimum required landing area and all other Type "E" pools will be charged according to (i) above.

(iii) The Department may collect an additional $250 from the owner for each repeat final inspection that is required due to incomplete construction or construction that is not in accordance with permitted plans and specifications.

(b) Annual Operating Permits.

(i) Type "A", "B", "C", "D" and "F" Pools - $125 for the first pool on a property plus $100 for each additional pool on the same property.

(ii) Type "E" Pools - $100 per flume or water course.

Fiscal Impact Statement:

These fees are intended to provide a stable level of funding for the programs as described herein, imposing no additional impact on state funds for the Department.

Statement of Need and Reasonableness:

This statement was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: R.61-30, *Environmental Protection Fees*

Purpose: This amendment of R.61-30 revises the recreational waters fees to match the current budget proviso (which is the amount the Department is already charging).

Legal Authority: S.C. Code Sections 44-55-2350 and 48-2-10 *et seq.*

Plan for Implementation: Upon approval by the Board of Health and Environmental Control, the General Assembly and publication in the State Register, the Department will implement the regulation changes as with other regulations.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFIT:

The amount of fees in this regulation change are already being charged to the recreational waters "industry" and is important to keep a viable program in place.

DETERMINATION OF COSTS AND BENEFITS:

Processing applications for permits to construct or modify recreational waters facilities (e.g., public swimming pools) and performing inspections in South Carolina requires considerable commitment of the Department's fiscal resources. The size and scope of applications which can take considerable staff time to review, a lack of state appropriations compounded by budget cuts necessitate the implementation of this fee amendment. There are

numerous affected entities in South Carolina. An efficient and timely turnaround on these projects can foster a positive economic impact.

UNCERTAINTIES OF ESTIMATES:

The Department can be reasonably accurate on the costs associated with time and effort to review environmental permits. Unknowns, such as withdrawal/resubmittal scenarios, have an impact on individual activities.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Substantive review of projects, which could have a negative impact on the environment or public health, is necessary to protect both the natural resources of South Carolina and the health of its citizens. Experience has shown that proper funding of permitting programs, coupled with an organizational philosophy to streamline the process, works best to both protect the environment and provide an economic boost to applicants by assuring them a timely response from the state for applicable time frames.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

Without this change, the needed fees to sustain a viable program will not be insured. Consequences may include a backlog of permit applications to build new facilities and limited Department inspections to insure public health and safety, if the current budget proviso is not renewed year-by-year.

Statement of Rationale pursuant to S.C. Code Section 1-23-120:

The Department has administrative need to collect fees to administer this program. This need is based on an assessment of the Department's financial resources and expenses to administer this program.

Document No. 3003
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Ann. Section 44-56-30

R.61-79. Hazardous Waste Management Regulations

Synopsis:

The Department has amended Regulation 61-79 to adopt federal amendments through October 25, 2004. Adoption of federal amendments will ensure federal compliance. The Department is also incorporating the S.C. Environmental Excellence Program.

(1) The United States Environmental Protection Agency (USEPA) promulgates amendments to 40 CFR 124, 260 through 266, 268, 270, and 273 throughout each calendar year. Recent federal amendments affect an exclusion at 261 Appendix IX of six wastewater treatment plant sludges at six automobile assembly plants in Michigan, national emission standards for air pollutants for certain vehicle surface coating operations, and other NESHAP-related amendments. Clarification will be made at 261.5(j) to reflect federal clarifying amendments addressing recycled used oil. These rules were published in the *Federal Register* between July 1, 2003, and October 25, 2004, at 68 FR 44659, 69 FR 21737, 69 FR 22601, and 69 FR 62217.

(2) This amendment adopts_the National Environmental Performance Track Rule with an addition to 262.34 "Accumulation Time" and new language at (j) and (k) and (l) to provide for flexibility regarding storage time in certain cases. Amendments to the Performance Track Rule will require participation in the South Carolina

Environmental Excellence Program. The South Carolina Environmental Excellence Program is defined by Act 318 of 2002, which added S.C. Code Ann. Section 48-56-20(11).

In addition, the Department is removing the text in 266 Subpart E, replacing the text with only a reference to R.61-107.279, and replacing all cross references to 266 Subpart E with references to R.61-107.279, reflecting federal language in 40 CFR 266. The Department is also removing related used oil standards.

The Department amends R.61-79 to maintain conformity with federal requirements, ensure compliance with federal standards, and incorporate the South Carolina Environmental Excellence Program. A fiscal impact statement and legislative review of this amendment will be required in order to include the South Carolina Environmental Excellence Program in R.61-79. Certain industries in the State will be able to store wastes for longer periods of time. Because this amendment requires membership in the South Carolina Environmental Excellence Program, it is broader in scope than the federal regulation and thus requires legislative review.

A Notice of Proposed Regulation providing opportunity for public comment was published in the State Register as Document No. 3003 on October 28, 2005. Notice was also provided on the Department's Land and Waste Management Internet site, as well as in the DHEC Regulation Development Update on the Department's main Regulatory Information Internet site. DHEC also completed mailings to approximately 200 interested companies and citizens. Staff also conducted an informational forum on November 30, 2005. No comments were received during the public comment period, and the Department's Board approved the proposed regulations on January 12, 2006.

Discussion of Revisions:

The following amendments are required for federal compliance except for the provision at 262.34(j)(k)&(l) which link to the South Carolina Environmental Excellence Program.

Instructions:

SECTION	**CHANGE**
261.1(d)	Remove reference to 266 and reserve
261.5(j)	Amend reference to 266 and adopt federal clarification
261.6(a)(2)(iii)	Remove reference to 266 and reserve
261.6(a)(3)(iv)(A)(B)&(C)	Remove references to 266 and replace with 279
261.6(a)(3)(v)	Remove irrelevant exclusion and reserve
261.6(a)(4)	Remove reference to 266 and replace with 279
261.21(a)(3)&(4)	Correct two cross references to reflect amendments in other programs
261 Appendix IX	Exclude six wastewater treatment plant sludges at six automobile assembly plants in Michigan
262.34(j)(k)&(l)	Add new provision for Performance Track Rule and South Carolina Environmental Excellence Program
264.1(g)(2)	Remove reference to 266 and replace with 279
264.1050(h)	Add new provision for surface coating operations and note
265.340(a)	Remove out-of-date incinerator provisions
265.340(b)	Add language omitted in previous EPA instructions
265.370	Amend to clarify incinerator regulations
265.1050(g)	Add new provision for surface coatings
266 Subpart E	Remove out-of-date requirements for boilers and industrial furnaces and add reference to R.61-79.107.279 to 266 Subpart E heading
266.100(a)	Amend (a) and remove (1) through (4) regarding used oil burning
266.100(c)	Remove reference to 266 and replace with 279

Instructions: Amend R.61-79 pursuant to each individual instruction provided in the text below:

Text:

The following sections have been added, or revised. All other sections of R.61-79 will remain.

Revise 261.1 (d) to read:
261.1 (d) [Reserved 5/06]

Revise 261.5 (j) to read:
261.5 (j) If a conditionally exempt small quantity generator's wastes are mixed with used oil, the mixture is subject to R.61-79.107.279. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated. (6/89)

Revise 261.6 (a)(2)(iii) to read:
261.6 (a) (2) (iii) [Reserved 5/06]

Revise 261.6 (a)(3)(iv)(A)(B)(C) & (v) to read:
(3) (iv) (A) Hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such hazardous wastes, where such hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under R.61-79.107.279 and so long as no other hazardous wastes are used to produce the hazardous waste fuel; (12/92, 5/96, 6/03)

(B) Hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining production, and transportation practices, where such hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under R.61-79.107.279; and

(C) Oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under R.61-79.107.279; and

(v) [Reserved 5/06]

Revise 261.6(a)(4) to read:
(4) Used oil that is recycled and is also a hazardous waste solely because it exhibits a hazardous characteristic is not subject to the requirements of parts 260 through 268, but is regulated under R.61-79.107.279.11. Used oil that is recycled includes any used oil which is reused, following its original use, for any purpose (including the purpose for which the oil was originally used). Such term includes, but is not limited to, oil which is re-refined, reclaimed, burned for energy recovery, or reprocessed. (12/93)

Revise 261.21(a), (a)(3) & (4) to read:
261.21 Characteristic of ignitability

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

(3) It is an ignitable compressed gas as defined in 49 CFR 173.115 and as determined by the test methods described in that regulation or equivalent test methods approved by the Department under 260.20 and 260.21. (12/93)

(4) It is an oxidizer as defined in 49 CFR 173.127.

Appendix IX to Part 261 - Wastes Excluded Under 260.20 and 260.22

TABLE 1 - WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Add the following six wastewater treatment plant sludge exclusions from six automobile assembly plants in Michigan in alphabetical order by facility:

Facility and address	Waste description
Ford Motor Company, Michigan Truck Plant and Wayne Integrated Stamping and Assembly Plant. - Wayne, Michigan	Waste water treatment plant sludge, F019, that is generated by Ford Motor Company at the Wayne Integrated Stamping and Assembly Plant from wastewaters from both the Wayne Integrated Stamping and Assembly Plant and the Michigan Truck Plant, Wayne, Michigan at a maximum annual rate of 2,000 cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of July 30, 2003, per 68 FR 44657, 44658.
Ford Motor Company, Wixom Assembly Plant: -Wixom, Michigan	Waste water treatment plant sludge, F019, that is generated by Ford Motor Company at the Wixom Assembly Plant, Wixom, Michigan at a maximum annual rate of 2,000 cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR Part 258. The exclusion becomes effective as of July 30, 2003, per 68 FR 44657, 44658.
General Motors Corporation, Flint Truck: - Flint, Michigan	Waste water treatment plant sludge, F019, that is generated by General Motors Corporation at Flint Truck, Flint, Michigan at a maximum annual rate of 3,000 cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of July 30, 2003, per 68 FR 44657, 44658.
General Motors Corporation, Hamtramck: -Detroit, Michigan	Waste water treatment plant sludge, F019, that is generated by General Motors Corporation at Hamtramck, Detroit, Michigan at a maximum annual rate of 3,000 cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of July 30, 2003, per 68 FR 44657, 44658.
General Motors Corporation, Pontiac East: -Pontiac, Michigan	Waste water treatment plant sludge, F019, that is generated by General Motors Corporation at Pontiac East, Pontiac, Michigan at a maximum annual rate of 3,000 cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of July 30, 2003, per 68 FR 44657, 44658.
Trigen/Cinergy-USFOS of Lansing LLC at General Motors Corporation, Lansing	Waste water treatment plant sludge, F019, that is generated at General Motors Corporation's Lansing Grand River (GM-Grand River) facility by Trigen/Cinergy-USFOS of Lansing LLC exclusively from wastewaters from GM Grand River, Lansing, Michigan at a maximum annual rate of 2,000 cubic yards per year.

Grand River: -Lansing, Michigan	The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR Part 258. The exclusion becomes effective as of July 30, 2003, per 68 FR 44657, 44658.

Add 262.34 (j), (k), & (l) to read:

262.34 (j) A member of the Performance Track Program who is also a member of the South Carolina Environmental Excellence Program (SCEEP) who generates 1000 kg or greater of hazardous waste per month (or one kilogram or more of acute hazardous waste) may accumulate hazardous waste onsite without a permit or interim status for an extended period of time, provided that:

(1) The generator accumulates the hazardous waste for no more than 180 days, or for no more than 270 days if the generator must transport the waste (or offer the waste for transport) more than 200 miles from the generating facility; and

(2) The generator first notifies the Regional Administrator and the Department in writing of its intent to begin accumulation of hazardous waste for extended time periods under the provisions of this section. Such advance notice must include:

(i) Name and EPA ID number of the facility, and specification of when the facility will begin accumulation of hazardous wastes for extended periods of time in accordance with this section; and

(ii) A description of the types of hazardous wastes that will be accumulated for extended periods of time, and the units that will be used for such extended accumulation; and

(iii) A statement that the facility has made all changes to its operations, procedures, including emergency preparedness procedures, and equipment, including equipment needed for emergency preparedness, that will be necessary to accommodate extended time periods for accumulating hazardous wastes; and

(iv) If the generator intends to accumulate hazardous wastes onsite for up to 270 days, a certification that a facility that is permitted (or operating under interim status) under part 270 of this chapter to receive these wastes is not available within 200 miles of the generating facility; and

(3) The waste is managed in:

(i) Containers, in accordance with the applicable requirements of part 265 subpart I, AA, BB and CC of 265 and 264.175; or

(ii) Tanks, in accordance with the requirements of 265, subpart J, AA, BB, and CC of 265 except for 265.197(c) and 265.200; or

(iii) Drip pads, in accordance with subpart W of 265; or

(iv) Containment buildings, in accordance with subpart DD of part 265; and

(4) The quantity of hazardous waste that is accumulated for extended time periods at the facility does not exceed 30,000 kg; and

(5) The generator maintains the following records at the facility for each unit used for extended accumulation times:

(i) A written description of procedures to ensure that each waste volume remains in the unit for no more than 180 days (or 270 days, as applicable), a description of the waste generation and management practices at the facility showing that they are consistent with the extended accumulation time limit, and documentation that the procedures are complied with; or

(ii) Documentation that the unit is emptied at least once every 180 days (or 270 days, if applicable); and

(6) Each container or tank that is used for extended accumulation time periods is labeled or marked clearly with the words "Hazardous Waste," and for each container the date upon which each period of accumulation begins is clearly marked and visible for inspection; and

(7) The generator complies with the requirements for owners and operators in part 265, with 265.16, and with 268.7(a)(5). In addition, such a generator is exempt from all the requirements in subparts G and H of part 265, except for 265.111 and 265.114; and

(8) The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants, or contaminants released to the environment prior to its recycling, treatment, or disposal; and

(9) The generator includes the following with its Performance Track Annual Performance Report which must be submitted to the Regional Administrator and to the Department, and the SCEEP biennial report submitted to the Department:

(i) Information on the total quantity of each hazardous waste generated at the facility that has been managed in the previous year according to extended accumulation time periods; and

(ii) Information for the previous year on the number of offsite shipments of hazardous wastes generated at the facility, the types and locations of destination facilities, how the wastes were managed at the destination facilities (*e.g.,* recycling, treatment, storage, or disposal), and what changes in onsite or offsite waste management practices have occurred as a result of extended accumulation times or other pollution prevention provisions of this section; and

(iii) Information for the previous year on any hazardous waste spills or accidents occurring at extended accumulation units at the facility, or during offsite transport of accumulated wastes; and

(iv) If the generator intends to accumulate hazardous wastes onsite for up to 270 days, a certification that a facility that is permitted (or operating under interim status) under part 270 of this chapter to receive these wastes is not available within 200 miles of the generating facility; and

(k) If hazardous wastes must remain onsite at a Performance Track and SCEEP member facility for longer than 180 days (or 270 days, if applicable) due to unforeseen, temporary, and uncontrollable circumstances, an extension to the extended accumulation time period of up to 30 days may be granted at the discretion of the Department on a case-by-case basis.

(1) If a generator who is a member of the Performance Track Program or the South Carolina Environmental Excellence Program withdraws from the Performance Track Program or the SCEEP, or if the Regional Administrator or the SCEEP terminates a generator's membership, the generator must return to compliance with all otherwise applicable hazardous waste regulations as soon as possible, but no later than six months after the date of withdrawal or termination.

Revise 264.1 (g) to read:

264.1 (g) The requirements of this regulation do not apply to:

(2) The owner or operator of a facility managing recyclable materials described in R.61-79.261.6 (a)(2), (3), and (4) (except to the extent that requirements of this subpart are referred to in R.61-79.107.279 or subparts C, F, G, or H of 266). (12/93)

Revise 264.1050 (h) note to read:

264.1050 (h) Purged coatings and solvents from surface coating operations subject to the national emission standards for hazardous air pollutants (NESHAP) for the surface coating of automobiles and light-duty trucks at 40 CFR part 63, subpart IIII, are not subject to the requirements of this subpart.

[Note: The requirements of 264.1052 through 264.1065 apply to equipment associated with hazardous waste recycling units previously exempt under 261.6(c)(1). Other exemptions under 261.4, and 264.1(g) are not affected by these requirements.]

Revise 265.340 (a) & (b) to read:

265.340 Applicability (6/03)

(a) The regulations of this Subpart apply to owners and operators of hazardous waste incinerators (as defined in 260.10 of this chapter), except as 265.1 provides otherwise.

(b) Integration of the MACT standards.

(1) Except as provided by (b)(2), the standards no longer apply when an affected source demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR part 63, Subpart EEE, by conducting a comprehensive performance test and submitting to the Department a Notification of Compliance under 63.1207(j) and 63.1210(b) documenting compliance with the requirements of part 63, Subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards,

RCRA permit conditions that were based on the standards of this part will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

(2) The following requirements continue to apply:

(i) the closure requirements of 266.102(e)(11) and 266.103(l);

(ii) the standards for direct transfer of 266.111

(iii) the standards for regulation of residues of 266.212; and

(iv) the applicable requirements of Subparts A through H, BB and CC of parts 264 and 265.

Revise 265.370 leadin to read:

265.370Other thermal treatment

The regulations in this subpart apply to owners or operators of facilities that thermally treat hazardous waste in devices other than enclosed devices using controlled flame combustion, except as section 265.1 provides otherwise. Thermal treatment in enclosed devices using controlled flame combustion is subject to the requirements of subpart O if the unit is an incinerator, and subpart H of part 266, if the unit is a boiler or an industrial furnace as defined in 260.10. (12/92, 5/93)

Revise 265.1050 & note to read:

265.1050 (g) Purged coatings and solvents from surface coating operations subject to the national emission standards for hazardous air pollutants (NESHAP) for the surface coating of automobiles and light-duty trucks at 40 CFR part 63, subpart IIII, are not subject to the requirements of this subpart.

[Note: The requirements of 265.1052 through 265.1064 apply to equipment associated with hazardous waste recycling units previously exempt under paragraph 261.6(c)(1). Other exemptions under 261.4 and 265.1(c) are not affected by these requirements.]

Revise 266 Subpart E to read:

Subpart E - Used Oil Burned for Energy Recovery
[Reserved 5/06; Refer to R.61-79.107.279]

Revise 266.100(a) & (c) to read:

266.100Applicability (6/03)

(a) The regulations of this Subpart apply to hazardous waste burned or processed in a boiler or industrial furnace (as defined in 260.10) irrespective of the purpose of burning or processing, except as provided by paragraphs (b), (c), (d), (g) and(h) of this section. In this subpart the term "burn" means burning for energy recovery or destruction, or processing for materials recovery or as an ingredient. The emissions standards of 266.104, 266.105, 266.106, and 266.107 apply to facilities operating under interim status or under a permit as specified in R.61-79.266.102 and 266.103.

(c) The following hazardous wastes and facilities are not subject to regulation under this Subpart: (9/01)

(1) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in Subpart C of 261. Such used oil is subject to regulation under R.61-107.279;

Fiscal Impact Statement: Each of the federal amendments is less stringent than existing provisions, and therefore is less costly to the State and its political subdivisions. The inclusion of the DHEC Environmental Excellence Program with the federal Performance Track program will require some additional consideration by the Department, but should assist the Department in focusing its limited resources more efficiently.

Statement of Need and Reasonableness

This Statement of Need and Reasonableness complies with S. C. Code Ann. Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: Amendment of R.61-79 Hazardous Waste Management Regulations:

Purpose: The purpose of this amendment is to meet compliance requirements of the United States Environmental Protection Agency (EPA), which promulgates amendments to 40 CFR 124, 260 through 266, 268, 270, and 273 throughout each calendar year by publication in the *Federal Register*.

Recent federal amendments affect an exclusion at 261 Appendix IX of six wastewater treatment plant sludges at six automobile assembly plants in Michigan, national emission standards for air pollutants for certain vehicle surface coating operations, and other NESHAP-related amendments. The Department will adopt the National Environmental Performance Track Rule with an addition to 262.34 "Accumulation Time" and new language at (j) and (k) and (l) to provide for flexibility regarding storage time in certain cases. Amendments to the Performance Track Rule require participation in the South Carolina Environmental Excellence Program. The South Carolina Environmental Excellence Program is defined by Act 318 of 2002, which added S.C. Code Ann. Section 48-56-20(11). Clarification is made at 261.5(j) to reflect federal clarifying amendments addressing recycled used oil. These rules have been published in the *Federal Register* between July 1, 2003, and October 25, 2004. Finally, this amendment removes the text in 266 Subpart E, replaces the text with only a reference to R.61-107.279, and replaces all cross references to 266 Subpart E with references to R.61-107.279, to reflect federal language in 40 CFR 266. In addition, this amendment removes used oil standards which were retained when the EPA adopted the federal Boiler and Incineration Facility (BIF) regulations.

This amendment of R.61-79 will maintain conformity with federal requirements, ensure compliance with federal standards, and incorporate the South Carolina Environmental Excellence Program. A fiscal impact statement and legislative review of this amendment is required in order to incorporate the South Carolina Environmental Excellence Program in R.61-79 and provide for longer storage times.

The federal amendments appeared at: 68 FR 44659, 69 FR 21737, 69 FR 22601, and 69 FR 62217.

Legal Authority: S. C. Code Ann. Section 44-56-30, the Hazardous Waste Management Act, to facilitate the Resource Conservation and Recovery Act of 1976 as amended.

Plan for Implementation: Upon final approval by both the Board of Health and Environmental Control and the General Assembly and publication in the *State Register* as a final regulation, amended regulations will be provided to the regulated community at cost through the Department's Freedom of Information Office and at the Bureau web site.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: Adoption of the amendments and corrections to R.61-79 will enable compliance with recent federal amendments and incorporate the South Carolina Environmental Excellence Program. Certain industries in the State will be able to store wastes for longer periods of time. Because this amendment requires membership in the South Carolina Environmental Excellence Program to enable longer storage periods, it is broader in scope than the federal regulation and thus requires legislative review.

DETERMINATION OF COSTS AND BENEFITS: This regulatory amendment requires a Fiscal Impact Statement because the incorporation of the South Carolina Environmental Excellence Program as part of R.61-79 is not necessary to maintain compliance with federal regulations. For the federal revisions, EPA estimated costs and benefits of the various amendments are summarized below. The summaries are taken from the cited *Federal Register* notices. A significant regulatory action is defined as one that (5/26/98 in 63 FR 28630) "is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements...; or (4) raise novel legal or policy issues arising out of legal mandates..."

All three of the new rules provide flexibility for the regulated community. The surface coating rule, according to the *Federal Register,* estimates that the direct cost "is approximately $154 million in 1999 dollars..little impact on domestic productivity..and international competitiveness." This rule also supports air quality amendments. Therefore, the rules have little if any negative economic impact on the Department or the regulated community. The Performance Track amendments are federal amendments which are described at 69 FR 21749 and "will reduce costs for the facilities eligible to take advantage of the rule. Most of these cost reductions result from reduced reporting hours burden for facilities, or reduced waste management costs." Certain industries in the State will be able to store wastes for longer periods of time. Because this amendment requires membership in the South Carolina Environmental Excellence Program to enable longer storage times it is broader in scope than the federal regulation and thus requires legislative review. The inclusion of the DHEC Environmental Excellence Program with the federal Performance Track program will require some initial commitment by industries selecting to participate in the programs and some additional consideration by the Department, but should overall reduce storage and transportation costs for industry and assist the Department in focusing its limited resources more efficiently .

UNCERTAINTIES OF ESTIMATES: No known uncertainties.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The over-all effects of these rules are expected to be beneficial to the public health and environment and also reflect federal provisions in State law.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: The State's ability to implement federal requirements will not be affected whether or not these amendments are adopted, as they are each less stringent than current regulation.

Statement of Rationale

Amendments to the federal Performance Track Rule require participation in the South Carolina Environmental Excellence Program to allow certain outstanding industries in the State the flexibility to store wastes for longer periods of time. The Performance Track Rule is thus broader in scope than the federal regulation and requires legislative review. The other amendments conform with federal regulation.

Document No. 3004
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: S.C. Code Sections 44-53-1450; 1-23-10; -110

R.61-85. Prevention and Control of Lead Poisoning in Children.

Synopsis:

R. 61-85 was promulgated and implemented in 1981. The regulation reflects protocols and procedures that have significantly changed since its inception, and is now inconsistent with protocols and procedures prescribed by the Centers for Disease Control and Prevention regarding childhood lead poisoning. Furthermore, the 2005 revision of the South Carolina Lead Poisoning Prevention and Control Act, South Carolina Code of Laws, Sections 44-53-1310 to -1480, has rendered R.61-85 obsolete; the public health concerns that R.61-85 was intended to address are now addressed through the revised statute. Since this regulation is no longer needed, and in the interest of good government and efficiency, the Department is repealing R.61-85.

See Statement of Need and Reasonableness herein.

Instructions: Delete R.61-85 in its entirety.

Text of R.61-85 for Repeal:

R. 61-85**.** Prevention and Control of Lead Poisoning in Children.

A. Definitions

(1) "Child Care Facility" means a structure or portion thereof in which children under six years of age are present on a regular basis, including any structure used primarily as a residence, school, nursery, day care center, clinic, treatment center or other facilities catering to the needs of children including any outbuilding, fencing or other structure used in conjunction therewith. This includes any secondary dwelling which a child occupies on a regular basis.
(2) "Commissioner" means the Commissioner of Health and Environmental Control.
(3) "Department" means the Department of Health and Environmental Control.
(4) "Dwelling" means a structure, all or part of which is designed or used for human habitation, including any outbuilding, fencing or other structure used in conjunction therewith.
(5) "Dwelling Unit" means any room, group of rooms or other areas of a dwelling.
(6) "Emergency hazard intervention" means the removal of loose and flaking lead-based paint by scraping or brushing, to include sweeping and wet mopping. The surface may then be covered with a masking tape or similar adhesive material.
(7) "Environmental health inspector" or "inspector" means a person who is an authorized representative of the Department, or designated by the Commissioner, who is trained in environmental epidemiology relating to child lead toxicity. This person may be certified in the proper use, security and maintenance of the XRF instrument.
(8) "Exposed surface" means any interior surface of a dwelling, dwelling unit or child care facility and those exterior surfaces of such structures which are chewable by or readily accessible to children six years of age or younger, such as stairs, porches, railings, windows, doors and siding from ground level to a vertical distance of at least five feet, including those interior or exterior surfaces where peeling or chipping paint or other similar surface-coating material occurs or is likely to occur.
(9) "Householder" means the occupant of a dwelling or dwelling unit or his representative, the owner of an unoccupied dwelling unit or his representative or the owner of a day care facility or his representative.
(10) "Lead-based substance" means any paint, lacquer, glaze or other similar surface-coating material and putty or plaster containing more than six hundredths of one percent lead by weight, calculated as lead metal in the total nonvolatile content or in the dried paint film or seven-tenths or more milligrams per square centimeter of lead in the dried film of paint already applied as measured by an in situ analyzer device.
(11) "Lead-based substance hazard" means any exposed surface upon which a lead-based substance containing dangerous levels of lead has been applied.
(12) "Lead bearing material" means any material found within or around the dwelling, dwelling unit or child care facility, and not usually associated with the dwelling structure, which contains lead.
(13) "Lead bearing material hazard" means lead bearing material containing dangerous levels of lead.
(14) "Lead poisoning" means a blood lead level at an elevation hazardous to health as established by the Commissioner.
(15) "Person" means any individual, firm, corporation, association, trust or partnership.
(16) "Primary dwelling" means that dwelling or dwelling unit which the child occupies the greatest amount of time.
(17) "Regulatory/licensing agency" means any federal, state or local governmental agency with health regulatory or licensing functions.
(18) "Sale" or "Sell" means transfer or delivery for a consideration, barter, exchange, or gift or offer therefor.
(19) "Screening risk class" means the Roman numerical category in which a child is placed based on the results from a screening sample of blood. The highest Roman numeral reflects the greatest urgency for medical and environmental intervention.

Screening Risk Class
Erythrocyte Protoporphyrin (EP)
(ug/dl Whole Blood)

Blood Lead (ug/dl)	<=49	50-109	110-249	>=250
<=29	I	*	*	*
30-49	**	II	III	III
50-69	**	III	III	IV
>=70	**	**	IV	IV

* Indicates child with iron deficiency.
** Child should be retested.

(20) "Secondary dwelling" means a dwelling or dwelling unit which the child occupies on a regular basis for less time than the primary dwelling.
(21) "Toys" means all articles intended for use by infants or children as playthings.
(22) "Undue lead absorption" means excess lead in the blood with evidence of biochemical derangement in the absence of clinical symptoms. It is defined by confirmed blood lead levels of 30-69 ug/dl associated with erythrocyte protoporphyrin levels of 50-249 ug/dl whole blood.
(23) "XRF instrument" means any of the latest model analyzer devices which use x-ray fluorescence in measuring concentrations of lead on site in applied paints in milligrams per square centimeter.

B. Use of Lead-Based Substances on Certain Objects Prohibited.

No person shall use or apply lead-based substances:

(1) To toys, furniture, cooking, drinking or eating utensils or the interior or exterior surface or fixture of any dwelling, dwelling unit or child care facility.
(2) In or upon any fixture or other objects used, installed or located in or upon any exposed surface of a dwelling, dwelling unit or child care facility or intended to be so used, installed or located.

C. Sale or Delivery of Certain Objects Containing Lead-Based Substances Prohibited.

No person shall sell, offer for sale, deliver, give away or possess with intent to sell, deliver, or give away any of the following:

(1) Toys, furniture, cooking, drinking or eating utensils if the exterior finish contains a lead-based substance.
(2) Fixtures or other objects intended to be used, installed or located in or upon any exposed surface of a dwelling, dwelling unit or child care facility if the exterior finish contains a lead-based substance.
(3) Any lead-based substance for use on any exposed surface of any dwelling unit or child care facility.

The provisions of this section shall not apply to the sale of products which conform to the standards for the sale of lead-based paint products under Federal law.

D. Exemptions

(1) Lead-based ceramic glazes may be applied to decorative ceramic items or to ceramic dishware in the home provided strict adherence to label instructions and precautions are followed.
(2) Lead-based ceramic glazes or raw lead compounds used in the home manufacturing of ceramic glazes may be sold provided they are sold exclusively for the purpose of manufacturing such glazes.

(3) Lead-based paints that are not intended or suitable for use on or within residential premises and which are not advertised or labeled as intended or suitable for such uses and which are not sold to the general public on a retail basis may be sold and used provided their use will not endanger the health and welfare of persons residing nearby.
(4) Also exempted from this regulation are any items which are exempted pursuant to Federal law.

E. Report of Lead Poisoning Cases

Whenever any physician, hospital, public health nurse or other person or agency knows or has reason to believe that any person he examines or treats has or is suspected of having lead poisoning, such persons shall within seven days give notice thereof to the Department. The case or suspected case of lead poisoning shall be reported in accordance with the established procedure regarding reportable diseases in South Carolina.

F. Dwelling Inspections

(1) Authorization
An inspection of any dwelling, dwelling unit or child care facility is permissible when:
The Department is informed of a case of lead poisoning, at which time every effort will be
made to inspect the primary dwelling of screening risk class II, III, and IV children according to the following schedule:

Screening Risk Class Placement
(1) Class I -- no inspection necessary
(2) Class II -- within 15 days
(3) Class III -- within 3-5 days
(4) Class IV -- within 48 hours

Secondary dwellings will be inspected as deemed necessary by the inspector or his supervisor.
The Department is requested to inspect, by an occupant or his representative, or by a householder or his representative, any dwelling, dwelling unit or child care facility at which time the occupant's premises will be inspected within ten (10) days, unless a systematic inspection of the area in which the person requesting the inspection resides is scheduled within thirty (30) days, in which case the inspection may be deferred up to twenty (20) additional days.
The Department is requested to inspect, by the owner or his representative, any dwelling, dwelling unit or child care facility because a child under the age of six resides there.
The Department is requested to inspect by a regulatory or licensing agency with jurisdiction over the health and welfare of one or more of the occupants of the dwelling, dwelling unit or child care facility.
(2) Purpose
The purpose of the dwelling inspection is to ascertain the presence of lead-based substances or lead bearing material and to determine, by its accessibility, whether it is a possible source of lead poisoning to children under six years of age.
(3) Procedure
An environmental health inspector may enter and inspect any private dwelling, dwelling unit or child care acility pursuant to this section:
(1) Upon presentation of the appropriate credentials to the householder or his representative;
(2) With the consent of the householder or his representative;
(3) Between the hours of 8:00 a.m. and 8:00 p.m. excluding Sundays and holidays, unless
urgent circumstances require otherwise.
(4) If the householder refuses admission to the premises, the inspector shall apply for and
obtain an inspection warrant before he can inspect the premises. See Code Section 44-53-1400, as amended.
(b) The inspector may inspect all or part of the dwelling, dwelling unit or child care facility which
is accessible to the child and may analyze any exposed surface with the XRF instrument to determine lead concentrations. He may also remove samples of paint or other objects necessary for laboratory analysis. If the object to be removed is personal property of the householder, it may be removed only with the consent of the

householder. Laboratory results will be evaluated by the inspector or his supervisor. Lead-based substance hazards or lead bearing material hazards will be declared when identified.
(c) The exterior premises of adjacent dwellings may be inspected provided the inspector:
Determines and can substantiate that a child with lead poisoning or undue lead absorption
has access to an exposed surface on the adjacent premises, which causes the inspector to suspect that surface as a contributing source of the child's lead poisoning;
Presents the appropriate credentials to the householder or his representative, or the owner
or his representative;
Inspects between the hours of 8:00 a.m. and 8:00 p.m. excluding Sundays and holidays,
unless urgent circumstances require otherwise.
If the householder refuses admission to the premises, the inspector shall apply for and
obtain an inspection warrant before he inspects the premises. See Code Section 44-53-1390 as amended.

G. Notification

Whenever a child or children under six years of age reside in any dwelling, dwelling unit or child care facility in which a lead-based substance containing dangerous levels is identified on an exposed surface or where lead bearing material is found, it shall be the responsibility of the environmental health inspector or his supervisor, based upon his examination of the surface and other relevant factors indicating that the health and welfare of a child is in jeopardy, to declare such a surface to be a lead-based substance hazard or to declare such material to be a lead bearing material hazard, at which time:
(1) The inspector or his supervisor shall post in or upon the dwelling, dwelling unit or child care facility, in conspicuous places, notice of the existence of a lead-based substance hazard or lead-bearing material hazard. Notice shall not be removed until the inspector or his supervisor states that the lead-based substances or lead bearing materials no longer constitute a health hazard. Removal of the posted notice shall constitute a violation of this regulation.
(2) The inspector or his supervisor shall give notice of the existence of the lead-based substance hazard or lead bearing material hazard to all persons residing in the dwelling, dwelling unit or child care facility and shall instruct the householder in the appropriate method(s) for emergency hazard intervention.
(3) The Department shall give notice of the existence of the lead-based substance hazard or lead bearing material hazard to the owner or his representative and order that the hazard be removed, replaced or securely and permanently covered within thirty (30) days of receipt of the notice, in a manner satisfactory to the inspector or his supervisor. If, in the discretion of the Commissioner or his representative, the condition cannot be corrected in thirty (30) days, a reasonable extension of time may be granted.

H. Appeals

The owner, agent or person in control of any building subject to this regulation shall have the right, under Code Section 44-53-1430, to appeal within thirty (30) days from the decision of the Department to any court of competent jurisdiction, stating in the notice of appeal the grounds therefor, and the court shall affirm, modify or revoke the decision of the Department within thirty (30) days of receipt of the notice of appeal.

I. Sale of Posted Premises

If, before the end of the thirty (30) day period or its extension, the owner sells the dwelling or dwelling unit or child care facility, pursuant to Code Section 44-53-1430, he shall notify the prospective buyer of the lead problem and the new owner shall assume the responsibility of carrying out the requirements of this section within the specified time period.

J. Rental of Posted Premises

No person shall knowingly rent a dwelling or dwelling unit to be occupied by children under six years of age which has been posted and ordered cleared of lead-based substance hazards or lead bearing material hazards in accordance with Code Section 44-53-1430. If the presence of lead-based substances or lead bearing materials is unsuspected and becomes known when the dwelling or dwelling unit is already rented to a family with children under six years of age, the family of the children shall not be evicted for that reason unless a court order is issued declaring the structure to be unfit for human habitation under Code Section 44-53-1470(2).

K. Penalties

Failure to remove, replace or securely and permanently cover a lead-based substance hazard or lead bearing material hazard after notice constitutes a violation of this regulation, and any person, upon conviction thereof, shall be deemed guilty of a misdemeanor and be fined not more than two hundred ($200.00) dollars or be imprisoned for not more than thirty (30) days. Each day's violation shall constitute a separate offense.

Fiscal Impact Statement:

The Department estimates there will be no new costs imposed on the State or its political subdivisions by this regulation repeal.

Statement of Need and Reasonableness and Rationale:

The Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION:

Purpose: The regulation reflects protocols and procedures that have significantly changed since its inception, and is now inconsistent with protocols and procedures prescribed by the Centers for Disease Control and Prevention regarding childhood lead poisoning. Furthermore, the 2005 revision of the South Carolina Lead Poisoning Prevention and Control Act, South Carolina Code of Laws, Sections 44-53-1310 to -1480, has rendered R.61-85 obsolete; the public health concerns that R.61-85 was intended to address are now addressed through the revised statute. Since this regulation is no longer needed, and in the interest of good government and efficiency, the Department is repealing R.61-85.

Legal Authority: The legal authority for R.61-85 is S.C. Code of Laws Section 44-53-1450.

Plan for Implementation: None.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION REPEAL BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The 2005 revision of the South Carolina Lead Poisoning Prevention and Control Act, South Carolina Code of Laws, Sections 44-53-1310 to -1480, has rendered R.61-85 obsolete; the public health concerns that R.61-85 was intended to address are now addressed through the revised statute. Since this regulation is no longer needed, and in the interest of good government and efficiency, the Department is repealing R.61-85.

DETERMINATION OF COSTS AND BENEFITS: There are no anticipated costs or benefits associated with the repeal of this regulation.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There will be no effect on the environment or public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be no detrimental effect on the environment or public health by the repeal of R.61-85.

Statement of Rationale:

This regulation is no longer needed, and in the interest of good government and efficiency, the Department is repealing R.61-85.

Resubmitted April 25, 2006

Document No. 3006
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 30
Statutory Authority: S.C. Code Section 48-39-10 *et seq*.

R.30-1 Statement of Policy, and
R.30-12 Specific Project Standards for Tidelands and Coastal Waters

Synopsis:

These regulatory changes replace the existing regulation R.30-12.N, Access to Small Islands, which was declared invalid due to vagueness in the February 22, 2005, decision of the SC Supreme Court. These changes add definitions and detailed project standards to be utilized in the evaluation of permits for access to islands. The changes address the gap in the critical area regulations created by the Supreme Court decision and ensure consistent and effective Department review of applications for access to islands. Generally, the language provides more specific, protective and enforceable standards for the management of coastal islands, which are important and distinct features of the South Carolina coast.

Discussion of Changes Requested by the
House of Representatives Agriculture, Natural Resources
and Environmental Affairs Committee after Committee Review:

SECTION CHANGE

30-12.N Modify language in the section heading by replacing "," with "and" and by deleting "and other" and adding "as a".

30-12.N(1)(c) Modify subsection that describes the impact of structures on the critical area by deleting the last two sentences.

30-12.N(1)(d) Modify subsection that clarifies the intent of the regulation by deleting the first, third and forth sentences.

30-12.N(2)(b) Change section number referenced within the subsection to R.30-12.N(10).

30-12.N(2)(c) Change size of island by deleting "one acre" and adding "two acres".

30-12.N(2)(d) Delete subsection describing the circumstances in which the Department shall consider applications for a bridge permit for islands between one acre and two acres in size.

30-12.N(2)(e) Re-letter subsection to (d) for proper codification order.

30-12.N(2)(e) Add new subsection describing the circumstances in which the Department shall consider applications for a bridge permit for islands greater than one acre in size.

30-12.N(2)(f)(ii) Add new sentence to subpart that defines the length of a bridge.

30-12.N(3) Replace language to read "Dock and Bridge Construction Standards Associated with Coastal Islands."

30-12.N(3)(a)(ii). Change section number referenced within the subpart to R.30-12.N(4) and grammatical change.

30-12.N(3)(b) Delete entire subsection on density limits.

30-12.N(3)(c) Delete entire subsection on environmental assessment.

30-12.N(3)(d) Delete entire subsection on freshwater wetlands.

30-12.N(3)(e) Delete entire subsection on navigable waters.

30-12.N(3)(f) Re-letter subsection to (b)(i), and add new heading (b) "Development Plan." Add new subpart (ii) requiring applicant to submit a site development plan.

30-12.N(3)(g) Delete entire subsection on stormwater.

30-12.N(3)(h) Delete entire subsection concerning pervious paving of streets, roads and pathways on islands.

30-12.N(3)(i) Re-letter subpart (i) to (c) for proper codification order and delete subpart (ii).

30-12.N(3)(j) Re-letter subsection to (d) for proper codification order.

30-12.N(3)(k) Delete entire subsection concerning coverage ratios, buffers, and open space requirements.

30-12.N(3)(l) Re-letter subsection to (e) for proper codification order. Modify language of subparts (i) and (ii) to require all alternative systems to meet horizontal setbacks of 150 feet, and delete remaining language. Delete subparts (iii) – (v) entirely.

30-12.N(3)(m) Delete entire subsection concerning applications and zoning requirements.

30-12.N(3)(n) Delete entire subsection concerning vegetation and landscaping.

30-12.N(4) Delete entire section concerning requirement to demonstrate that project will not impose adverse impact upon the environment.

30-12.N(5) Renumber section on conservation easements to (4) for proper codification order. Replace “this regulation specifies that a dock limitation, wetland or buffer preservation commitment, OSDS or other development limit or" with "a reduction in environmental impact is either required or offered, the"

30-12.N(5)(c) Renumber subsection to (4)(c) for proper codification order. Replace "clearly delineating the buffers, wetlands and other protected areas, and these delineations must appear on all plats from which any portion of the property may be conveyed or financed" with "that depicts the environmental impact reduction

30-12.N(6) Renumber section (6) to (5) for proper codification order.

30-12.N(7) Renumber section (7) to (6) for proper codification order.

30-12.N(8) Renumber section (8) to (7) for proper codification order.

30-12.N(9) Renumber section (9) to (8) for proper codification order.

30-12.N(10) Renumber section (10) to (9)for proper codification order.

30-12.N(11) Renumber section (11) to (10) for proper codification order.

30-12.N(11)(c) Renumber subsection to (10)(c) for proper codification order. Change reference in subsection from R.30-12.N(5) to R.30-12.N(4).

30-12.N(11)(d) Modify by replacing "beyond the minimum standards in R.30-12.N(3) can take the form of" with "that the Department may consider are"

30-12.N(12) Renumber section (12) to (11) for proper codification order.

Discussion of Revisions Submitted by the
Department of Health and Environmental Control
for General Assembly Review:

These revisions will 1) add definitions for coastal island and bridge, 2) delete the existing regulations for access to small islands, 3) provide criteria for determining the eligibility of an island for a bridge permit, 4) establish minimum development standards for the evaluation of bridge permits to and the associated development of coastal islands, 5) provide for regulation of existing causeways and bridges, and 6) address permitting of non-vehicular bridges for use by the general public.

SECTION CHANGE

30-1.D Add definitions, in proper alphanumeric order, for coastal island and bridge, and renumber all following definitions.

30-12.N Delete this existing section and replace with a new section to be titled Access to Coastal Islands.

30-12.N(1) Add language describing the purpose and intent of this section, the value of coastal islands and the impacts associated with accessing them.

30-12.N(1)(a) Add a new subsection describing coastal islands in South Carolina, their risk for development, and a recent study the by SC Department of Natural Resources of some of these islands and their ecological value.

30-12.N(1)(b) Add a new subsection explaining that access to coastal islands involves placement of structures in areas protected by statute and the public trust doctrine.

30-12.N(1)(c) Add a new subsection describing the impact of structures for accessing islands on protected resources in the critical area.

30-12.N(1)(d) Add a new subsection to clarify the intent for these regulations to pertain only to the permitting of bridges and docks as a means of access to coastal islands.

30-12.N(2) Add a new section specifying eligibility criteria for applying for a bridge permit.

30-12.N(2)(a) Add a new subsection describing why some islands are too small and too far from upland to be eligible for bridges.

30-12.N(2)(b) Add a new subsection limiting bridges to non-vehicular ones, unless they qualify for a special exception, in areas of special resource value, which are specifically the ACE Basin, North Inlet and the Cape Romain National Wildlife Refuge.

30-12.N(2)(c) Add a new subsection prohibiting bridges to islands less than one acre in size.

30-12.N(2)(d) Add a new subsection prohibiting bridges to islands between one and two acres unless they qualify for a special exception.

30-12.N(2)(e) Add a new subsection describing the circumstances in which the Department may consider an application for a bridge permit.

30-12.N(2)(e)(i)Add a subpart describing the circumstances in which the Department may consider applications for bridges not exceeding 15 feet in width, including subsections (a) through (c) relating to the size of islands and their distance from upland.

30-12.N(2)(e)(ii) Add a subpart describing the circumstances in which the Department may consider applications for bridges which may exceed 15 feet in width, including subsections (a) and (b) relating to the size of islands and their distance from upland.

30-12.N(2)(f) Add a new subsection describing how the distance of islands from the upland will be measured.

30-12.N(2)(f)(i) Add a subpart defining the areas that are upland to include (a) mainland, and (b) the large developed islands excluded from the definition of coastal islands.

30-12.N(2)(f)(ii) Add a subpart requiring that the measurement be taken from an approved critical area line.

30-12.N(2)(g) Add a new subsection requiring a registered surveyor to submit a survey showing that the length of any proposed bridge does not exceed the lengths allowed in this regulation.

30-12.N(3) Add a new section of Minimum Development Standards for Bridge Applications that describes the minimum requirements if the eligibility criteria of R.30-12.N(2)(e) are met.

30-12.N(3)(a) Add a new subsection describing limitations on docks.

30-12.N(3)(a)(i)Add a subpart clarifying that these requirements are associated with islands accessed by bridges permits, and are in addition to the other Department standards relating to docks.

30-12.N(3)(a)(ii) Add a subpart requiring that the applicant eliminate 75 percent of docks which would normally be allowed and that the reduction be made binding via a conservation easement.

30-12.N(3)(a)(iii) Add a subpart limiting docks to 500 feet in length.

30-12.N(3)(a)(iv) Add a subpart prohibiting boat lifts and similar structures.

30-12.N(3)(a)(v) Add a subpart prohibiting roofs except on community docks.

30-12.N(3)(a)(vi) Add a subpart requiring the submittal of a dock master plan with the bridge application.

30-12.N(3)(b) Add a new subsection providing density limits for islands less than 10 acres in size.

30-12.N(3)(b)(i) Add a subpart with three sections (a) through (c) limiting the number of residential units allowed on islands between two and 10 acres in size.

30-12.N(3)(b)(ii) Add a subpart requiring compliance with applicable local ordinances that are more restrictive.

30-12.N(3)(c) Add a new subsection requiring an environmental assessment.

30-12.N(3)(c)(i)Add a subpart with four sections (a) through (d) specifying that the assessment include the identification of any of listed threatened or endangered species, State species of concern, and all freshwater wetlands.

30-12.N(3)(c)(ii) Add a requirement that the site plan consider impacts to wildlife habitats.

30-12.N(3)(d) Add a new subsection limiting impacts to freshwater wetlands on islands.

30-12.N(3)(d)(i) Add a subpart prohibiting impacts to freshwater wetlands on islands 10 acres or less in size.

30-12.N(3)(d)(ii) Add a subpart prohibiting fill on islands greater than 10 acres in size unless there is no feasible alternative.

30-12.N(3)(d)(iii) Add a subpart with three sections requiring that (a) the wetlands be protected via a conservation easement, (b) have buffers averaging 35 feet in width with a minimum of 15 feet, (c) the buffers be protected via conservation easement, and (d) a copy of the easement be submitted to the Department prior to issuance of the bridge construction placard.

30-12.N(3)(e) Add a new subsection limiting impacts of bridges to navigable waters.

30-12.N(3)(e)(i)Add a new subpart prohibiting bridges to islands 10 acres or less if they cross waters that are navigable at mean low water.

30-12.N(3)(e)(ii) Add a new subpart requiring that new bridges not impede navigation.

30-12.N(3)(f) Add a new subsection requiring bridges to minimize their size so as to minimize environmental impacts and to be constructed of materials suitable for the marine environment.

30-12.N(3)(g) Add a new subsection describing requirements for stormwater management and sediment reduction plans for bridges and for the development on accessed islands.

30-12.N(3)(g)(i) Add a new subpart with three sections (a) through (c) detailing the requirements for treating stormwater from the bridge.

30-12.N(3)(g)(ii) Add a new subpart requiring submission of the stormwater management and sediment reduction plan.

30-12.N(3)(g)(iii) Add a new subpart requiring stormwater plans meet the most stringent water quality standards.

30-12.N(3)(g)(iv) Add a new subpart requiring on-site retention of the first one and one-half inch of stormwater runoff.

30-12.N(3)(g)(v) Add a new subsection eligible storage management practices.

30-12.N(3)(g)(vi) Add a new subsection prohibiting exclusive use of buffers to meet stormwater management requirements.

30-12.N(3)(h) Add a new subsection requiring pervious paving of streets, etc., on islands of 10 acres or less.

30-12.N(3)(i) Add a new subsection with subparts (i) and (ii) specifying limitations on the lighting on bridges and islands.

30-12.N(3)(j) Add a new subsection requiring utilities to utilize the bridge corridor to access the island.

30-12.N(3)(k) Add a new section with subparts (i) through (v) limiting impervious cover, requiring buffers and open space, and describing allowable pruning of vegetation in the buffer.

30-12.N(3)(l) Add a new subsection with requirements for Onsite Disposal Systems that are construction on islands, and specify the standards for these systems in subparts (i) through (v).

30-12.N(3)(m) Add a new subsection requiring compliance with applicable zoning.

30-12.N(3)(n) Add a new subsection with subparts (i) through (iv) requiring tree surveys and other activities to preserve existing vegetation.

30-12.N(4) Add a new section with standards for demonstrating that bridge projects will not impose an adverse impact upon the environment.

30-12.N(4)(a) Add a new subsection stating that compliance with 30-12.N(4) meets the requirements of this subsection if the island is between 2 and 10 acres.

30-12.N(4)(b) Add a new subsection with subparts (i) through (iii) describing the risks associated with bridging to islands 10 acres or greater in size.

30-12.N(4)(c) Add a new subsection requiring additional feasible measures to minimize environmental impact for islands 10 acres or greater in size.

30-12.N(4)(d) Add a new subsection requiring that the Department make a specific finding that all criteria detailed in subparts (i) through (iv) of this subsection are met by the project.

30-12.N(4)(e) Add a new subsection with subparts (i) through (ix) describing the factors that are evidence of feasible measures to reduce adverse impact.

30-12.N(5) Add a new section with subsections (a) through (f) describing the standards for all conservation easements required by R.30-12.N.

30-12.N(6) Add a new section allowing maintenance and repair of existing bridges.

30-12.N(7) Add a new section allowing the replace of a destroyed bridge with one of like size.

30-12.N(8) Add a new section requiring the permits for expansions of existing bridges be processed as new bridge applications.

30-12.N(9) Add a new section with subsections (a) and (b) specifying that no new causeways will be permitted and that limited fill is allowed for existing useable causeways.

30-12.N(10) Add a new section with subsections (a) and (b) allowing for non-vehicular bridges on public lands such as parks.

30-12.N(11) Add a new section with subsections (a) through (d) allowing for special exceptions for islands over one acre in size and providing the additional requirements that must be met to qualify under this section.

30-12.N(12) Add a new section specifying that if any portion of these regulations is deemed invalid or unenforceable, the remaining portions of the regulations shall remain in effect.

Instructions: Amend R.30-1 and R.30-12 pursuant to each individual instruction provided below with the text of the amendment.

Text of Amendments:

Amend R.30-1.D by inserting the following two definitions in proper alphanumeric order and renumbering all following definitions.

(9) Bridge:

(a) Non-vehicular - bridges designed for use by pedestrians, golf carts or other maintenance vehicles, but not cars and trucks; are not docks; and can have a maximum clear width on the deck surface of six feet.

(b) Vehicular - bridges with a clear width on the deck surface of over six feet and designed to support traffic by cars and trucks.

(10) Coastal Island - an area of high ground above the critical area delineation that is separated from other high ground areas by coastal tidelands or waters. An island connected to the mainland or other island only by a causeway is also considered a coastal island. The purpose of this definition is to include all islands except those that are essentially mainland, i.e., those that already have publicly accessible bridges and/or causeways. The following islands shall not be deemed a coastal island subject to this section due to their large size and developed nature: Waites Island in Horry County; Pawleys Island in Georgetown County; Isle of Palms, Sullivans Island, Folly Island, Kiawah Island, Seabrook Island, Edisto Island, Johns Island, James Island, Woodville Island, Slann Island and Wadmalaw Island in Charleston County; Daniel Island in Berkeley County; Edisto Beach in Colleton County; Harbor Island, Hunting Island, Fripp Island, Hilton Head Island, St. Helena Island, Port Royal Island, Ladies Island, Spring Island and Parris Island in Beaufort County.

Amend 30-12.N by deleting the existing section entirely and replacing with the following:

N. Access to Coastal Islands. This section applies to applications for permits for bridges and docks as a means of obtaining access to coastal islands.

(1) Purpose and Intent:

(a) South Carolina has several thousand coastal islands, including barrier islands, sea islands, back barrier islands and marsh hammocks. Almost all of these islands are surrounded by expanses of salt marsh, occasionally bordered by tidal creeks or rivers. Historically, few of these islands have been built upon or altered, and most have been protected by their remoteness and inaccessibility. In recent years, however, a trend toward greater potential for development of these islands has stimulated questions and concerns about the ecological significance of these islands. The South Carolina Department of Natural Resources conducted a field study of a number of non-barrier islands. Their report, *An Ecological Characterization of Coastal Hammock Islands,* December, 2004, has shown that these islands are unique ecosystems with diverse flora and fauna. That study recommends protection and buffering of important habitats and resources associated with these islands.

(b) Access to coastal islands by bridges or docks involves the placement of structures into critical area coastal tidelands and waters that are protected by the statute, the critical area regulations, and by the public trust doctrine.

(c) Construction of bridges within critical area tidelands and waters involves impacts on critical area coastal tidelands and coastal waters, including temporary damages to salt marsh and shellfish beds, temporary increased turbidity, permanent displacement of marshes by installation of pilings, and permanent shading of marsh.

(d) The requirements of R.30-12.N apply only to islands for which a bridge or dock permit is issued, and are not intended to apply to upland areas or to otherwise modify, alter, conflict, create precedent or otherwise impact existing regulations and law.

(2) Eligibility to apply for a bridge permit.

(a) The decision on whether to issue or deny a permit for a bridge to a coastal island must be made with due consideration of the impacts to the public trust lands, critical area, coastal tidelands and coastal waters, weighed against the reasonable expectations of the owner of the coastal island. Giving due consideration to these factors, the Department has determined that some islands are too small or too far from upland to warrant the impacts on public resources of bridges to these islands, and thus no permit for a bridge shall be issued.

(b) Bridge permits, other than non-vehicular bridges for access by the general public, will not be issued in areas of special resource value unless they qualify under the special exceptions in R.30-12.N(10). These are the ACE Basin Taskforce Boundary Area, the North Inlet National Estuarine Research Reserve, and the Cape Romain National Wildlife Refuge.

(c) The Department will not consider applications for bridge access to islands less than two acres in size.

(d) The Department will, however, consider applications for bridge access in the following instances:

(i) Bridges not exceeding 15 feet in total width

(a) where the size of the island is two acres or greater, but less than or equal to three acres, and the distance from the upland and the length of the bridge does not exceed 200 feet;

(b) where the size of the island is greater than three acres but less than or equal to five acres and the distance from the upland and the length of the bridge does not exceed 300 feet;

(c) where the size of the island is greater than five acres, but less than or equal to ten acres and the distance from the upland and the length of the bridge does not exceed 500 feet.

(ii) Bridges may be constructed exceeding 15 feet in total width

(a) where the size of the island is greater than 10 acres, but less than or equal to 30 acres, and the distance from the upland and the length of the bridge does not exceed 500 feet;

(b) where the size of the island is greater than 30 acres and the distance from the upland and the length of the bridge does not exceed 1,500 feet.

(e) Notwithstanding the provision of R.30-12.N(2)(c), the Department shall consider applications for bridge access to coastal islands greater than one acre in size if the distance from the upland is 100 feet or less in distance.

(f) All measurements to coastal islands for the purpose of establishing whether an island may qualify for a bridge permit are taken from upland as defined in this section.

(i) Upland is:

(a) the naturally occurring mainland, and

(b) Waites Island in Horry County; Pawleys Island in Georgetown County; Isle of Palms, Sullivans Island, Folly Island, Kiawah Island, Seabrook Island, Edisto Island, Johns Island, James Island, Woodville Island, Slann Island and Wadmalaw Island in Charleston County; Daniel Island in Berkeley County; Edisto Beach in Colleton County; Harbor Island, Hunting Island, Fripp Island, Hilton Head Island, St. Helena Island, Port Royal Island, Ladies Island, Spring Island and Parris Island in Beaufort County.

(ii) The length measurements for all proposed bridges will be taken from a current Department approved critical area line. The length of a bridge is defined as the distance between critical area lines at each end of the bridge.

(g) In order to apply for a bridge permit, the applicant must submit a survey, produced and stamped by a registered surveyor licensed to practice in South Carolina, showing that the length of the proposed bridge will not exceed the lengths allowed in these regulations.

(3) Dock and Bridge Construction Standards Associated with Coastal Islands.

(a) Docks.

(i) The following standards apply to docks in projects associated with applications for bridge access to coastal islands. The project standards in this section are in addition to the other Department standards applicable to docks.

(ii) The application for the project shall reflect that the applicant has eliminated 75 percent of the number of private residential docks allowed by the Department's critical area permitting regulations as they existed on September 1, 2005. The dock reduction shall be made binding on the land by a conservation easement meeting the requirements of R.30-12.N(4).

(iii) Docks longer than 500 feet over the critical area are prohibited. This is inclusive of pierheads, floats, ramps, mooring piles and other associated structures.

(iv) No boat lifts, davits or similar structures are allowed.

(v) Roofs are not allowed on private docks, but are allowed on community docks.

(vi) All docks proposed for an island must be shown on a dock master plan that is submitted with the bridge application.

(b) Development Plan.

(i) All bridges shall be the minimum possible size and height to accommodate the intended use, aligned to minimize environmental damage, and constructed of materials approved for marine applications.

(ii) The applicant must submit a site development plan.

(c) Lighting on bridges must be designed with the minimum illumination necessary to meet local, state, or federal requirements for safety and navigation.

(d) All utilities servicing the island must be located within the footprint of the bridge and attached to the bridge if feasible, but must not be placed overhead.

(e) Onsite Disposal Systems (OSDS). If the island is to be served by OSDS, all alternative systems must meet a horizontal setback requirement of 150 feet from any part of the OSDS to the Department critical line.

(4) Conservation easements. Whenever a reduction in environmental impact is either required or offered, the affirmative commitment must be accomplished by a conservation easement, the conservation easement must meet the requirements of this part.

(a) The conservation easements shall be prepared in accordance with the South Carolina Conservation Easements Act of 1991, S.C. Code Ann. Section 27-8-10 through 27-8-120, and any amendments thereto (the "Act").

(b) The conservation easements must provide for permanent protection in perpetuity that will run with the title to the land.

(c) The conservation easement must incorporate by reference a recorded plat that depicts the environmental impact reduction. Once the conservation easement and associated plat are properly recorded in the chain of title, the failure to show the required delineations on a future plat shall not affect the validity of the conservation easement.

(d) The conservation easement must be held by the state or a land trust with a proven track record in the region and with the resources to enforce the terms of the easement. The conservation easement must provide for rights of enforcement by the Department and by any organization authorized to be a "holder" under the Act, provided that any legal action by a party other than the Department taken to enforce the terms of the conservation easement must include the Department as a party, and no such action may be settled without the written consent of the Department.

(e) Draft conservation easements must be submitted to the Department for review to determine compliance with the Act and the applicable limits and commitments related to the permit at issue, prior to issuance of the bridge permit.

(f) Prior to commencement of any work under a permit issued under this section, the recorded conservation easement must be filed with the Department, accompanied by an opinion of an attorney duly licensed to practice in South Carolina, certifying that the instrument has been duly executed by the fee simple owners of the property, that the individual signers of the instrument have full legal authority to execute the instrument, that the instrument has been properly recorded and indexed in the office of the county Register of Deeds, and that all holders of prior mortgages or other liens on the property have consented to the instrument and have subordinated their liens to the conservation easement.

(5) The owners of bridges are entitled to repair and maintain existing bridges as allowed under R.30-5.D and any applicable county or municipal regulations.

(6) If an existing bridge to a coastal island is destroyed or rendered unusable by natural causes or accidental destruction, the owner shall be entitled to a permit to replace the bridge with a like bridge that imposes no greater adverse impact on the critical area as the one destroyed.

(7) Permits for expansion of existing bridges will be processed as new bridges and must meet all applicable standards.

(8) Causeways.

(a) Permanent filling of critical areas for access to coastal islands is prohibited, except for fill associated with existing useable causeways.

(b) Existing useable causeways are defined as those causeways that have a drivable lane above the critical area.

(i) Permits for fill associated with existing usable causeways shall be granted only for minor fills that are minimized by use of containment structures to limit to the maximum extent feasible the square footage of fill, and where the fill would cause less damage to the critical area than would be caused by construction of a new bridge or other access structure.

(ii) Mitigation for critical area fill at a ratio of 2:1 will be required for fill associated with existing usable causeways.

(9) Non-vehicular bridges to be utilized by the general public on publicly owned lands for purely recreational, educational, or other institutional purposes will be exempt from all other sections of R.30-12.N and will be allowed by the Department provided there is no significant harm to coastal resources and the following minimum standards are met.

(a) The applicant must demonstrate that the structure is necessary for the overall planned use of the site.

(b) The structure must be aligned to minimize environmental impacts.

(10) Special Exceptions.

(a) Islands one acre or larger that do not qualify for a bridge permit under these regulations may apply for a special exception. To receive a special exception, the applicant shall present clear and convincing evidence that granting the bridge permit will serve an overriding public interest.

(b) For an application to meet the overriding public interest test, it must demonstrate by clear and convincing evidence that it will create overriding public benefits resulting from mitigation and diminished impacts to public trust resources compared with development that would likely occur without the bridge.

(c) All public benefits considered under this exception must be secured by a permanent conservation easement meeting the requirements of R.30-12.N(4) on all affected property.

(d) Impact reductions that the Department may consider are:

(i) permanent protection of habitat,
(ii) major reductions in building density,
(iii) major reductions in subdivision rights,
(iv) major reductions in docks,
(v) major increases in riparian buffers,
(vi) other architectural and site design improvements, and
(vii) minimization of bridge impacts to environmental and visual resources.

(11) Severability Clause. In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect, as if such invalid portions were not originally a part of these regulations.

Fiscal Impact Statement:

The Department estimates minimal additional cost will be incurred by the state or its political subdivisions as a result of the promulgation, approval, and implementation of these amendments; therefore, no additional state funding is being requested. Existing staff and resources have been utilized in preparation of these amendments and will further be utilized in the regulatory administration resulting from the amendments.

Statement of Need and Reasonableness:

The Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION:
R.30-1, Statement of Policy, and
R.30-12, Specific Project Standards for Tidelands and Coastal Waters

Purpose of Regulation: The regulatory changes replace the existing regulation R.30-12.N, Access to Small Islands, which was declared invalid due to vagueness in the February 22, 2005, decision of the SC Supreme Court. These changes add definitions and detailed project standards to be utilized in the evaluation of permits for access to islands. The changes address the gap in the critical area regulations created by the Supreme Court decision and ensure consistent and effective Department review of applications for access to islands. Generally, the language provides more specific, protective and enforceable standards for the management of coastal islands, which are important and distinct features of the South Carolina coast.

Legal Authority: S.C. Code Section 48-39-10 *et seq*., Coastal Tidelands and Wetlands Act, 1976

Plan for Implementation: The amendments will make changes to and be incorporated into R.30-1 and 12 upon approval of the General Assembly and publication in the *State Register*. The amendments will be implemented, administered, and enforced by existing staff and resources.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: These amendments are necessary to (1) implement S.C. Code Section 48-39-130, which addresses the permitting of activities in the critical area; (2) protect important and valuable public trust resources; (3) add clarity to existing regulations; and (4) enable Department staff to administer more effectively the regulatory program of the Coastal Division.

DETERMINATION OF COSTS AND BENEFITS:
1) Promulgation and administration of this amendment is estimated to have minimal economic impacts to the state. Benefits to the state will include improved management of coastal resources through increased clarity of the regulations and better protection of important habitats.
2) Promulgation and administration of this amendment is estimated to have no significant economic impacts to entities regulated or result in cost increases to the general public. Those regulated may incur some additional costs in the preparation of information required for consideration of an application to access a coastal island. Public benefits will be evident in improved management of coastal resources through increased clarity of the regulations and better management of public trust lands.

UNCERTAINTIES OF ESTIMATES: Minimal.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The amendments will refine the Department's ability to manage public usage of coastal resources, and will enable the Department to provide a more effective response to those seeking to utilize the public trust areas of the coastal zone.

DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: Non-implementation of the regulations will hinder SCDHEC/OCRM's statutory directives to manage the state's coastal environment for its citizens.

Statement of Rationale Pursuant to S.C. Code Section 1-23-120(B)(6).

These revisions ensure protection of unique and important resources of the coastal environment and provide additional clarity and specificity to the existing regulations that address access to islands. The revisions

are based on the consensus of a broad-based stakeholder committee. The development of the revisions relied on new information collected by the Department on the number, sizes, and locations of islands in the critical area as well as an ecological evaluation of some of these islands by the SC Department of Natural Resources. The experience and professional judgment of the Department's staff were relied upon in developing the regulation, as well as the input and suggestions of affected stakeholders. The revisions address the current lack of activity-specific regulations for accessing islands, which resulted from a legal decision that invalidated a portion of the Department's regulations.

Resubmitted April 25, 2006

Document No.3031

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF DENTISTRY

CHAPTER 39

Statutory Authority: 1976 Code Sections 40-1-40, 40-15-40, 40-15-140, and 40-15-275

Synopsis:

The Board of Dentistry is establishing necessary fees to carry out and enforce the provisions of 40-15-275 of the 1976 Code of Laws of South Carolina, as amended (2005 Act 92) regarding the licensure by credentials of dentists licensed in any state or territory of the United States.

Instructions:

Regulation 39-1 License to Practice Dentistry

Reg. 39-1A, 39-1B and 39-1C remain the same.
Reg. 39-1 add new subsection D as printed below.

Text:

39-1. License to Practice Dentistry.

D. Dentists licensed in any state or territory of the United States may be issued a license to practice dentistry in this State if the applicant complies with the provisions of Regulation 39-1(B) and Section 40-15-275 and pays a fee of $2000.00. The Board may waive $1500.00 of the fee upon agreement with an applicant to practice exclusively in a rural county for not less than two consecutive years.

Fiscal Impact Statement:

There will be no additional cost incurred by the State or any political subdivision.

Statement of Rationale:

There was no scientific or technical basis relied upon in the development of this regulation.

Document No. 3034
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOILER SAFETY PROGRAM
CHAPTER 71
Statutory Authority: 1976 Code Sections 41-14-10 through 41-14-150.

Synopsis:

The Boiler Safety Program is adding Article 9 regarding boiler safety to the regulations of the South Carolina Department of Labor, Licensing and Regulation (Chapter 71). These are the initial regulations for installation and inspection of boilers under 2005 Act. No. 59.

Instructions:

Add new Article 9 to Chapter 71.

Text:

S.C. Regulation 71, Article 9.
Subarticle 1

APPLICATION

71-9100 Requirement of filing inspection report to claim exemption.

Boilers described in S.C. Code 41-14-60(3), (4), (5), (6), and (7) may claim exemption from these regulations by filing with the Department an inspection report indicating that the boiler has been inspected at the appropriate frequency. The inspection report may be in the form of a report of inspection from a certified special inspector. The inspection report may also be in the form of a certification of insurance which identifies the boiler as required by S.C. Code 41-14-70(2) and contains evidence that the boiler has been inspected at the appropriate frequency and approved by the insurer.

DEFINITIONS

71-9101 Definitions.
For the purposes of this Chapter all definitions from the Boiler Safety Act apply. In addition the following definitions apply.

1. 'Act' means the Boiler and Pressure Vessel Safety Act, which were enacted as Title 41, Chapter 14, of the S.C. Code of Laws.
2. 'Alteration' means any change in the item described on the original Manufacturer's Data Report which affects the pressure-containing capability of the boiler or pressure vessel. Nonphysical changes such as an increase in the maximum allowable working pressure (internal or external) or design temperature of a boiler shall be considered an alteration. A reduction in minimum temperature such that additional mechanical tests are required shall also be considered an alteration.
3. 'Approved' means approved by the Department of Labor, Licensing and Regulation.
4. 'ASME Code' means The Boiler and Pressure Vessel Code published by the American Society of Mechanical Engineers, including addenda and code cases approved by the council of that Society.
5. 'Authorized Inspection Agency' means one of the following:
    a. New Construction: An Authorized Inspection Agency is one that meets the qualification and definition of NB-360, Criteria for Acceptance of Authorized Inspection Agencies for New Construction.
    b. Inservice: An Authorized Inspection Agency is either:
        i. a jurisdictional authority as defined in the National Board Constitution, or

ii. an entity that is accredited in accordance with NB-369, Qualifications and Duties for Authorized Inspection Agencies (AIAs) Performing Inservice Inspection Activities and Qualifications for Inspectors of Boilers and Pressure Vessels.

6. 'Special Inspector Certificate' means a certificate issued by the Department to a person who meets the requirements of the S.C. Code 41-14-80 and these regulations.

7. 'Internal Inspection' means as complete an examination as can reasonably be made of the internal and external surfaces of a boiler while it is shut down, and manhole plates, handhold plates or other inspection-opening closures are removed as required by the inspector.

8. 'External Inspection' means an inspection made when a boiler is in operation, if possible.

9. 'Commission; National Board' means the commission issued by The National Board of Boiler and Pressure Vessel Inspectors to a holder of a certificate of competency who desires to make shop inspections or field inspections in accordance with the National Board bylaws and whose employer submits the inspector's application to the National Board for such commission.

10. 'Condemned Boiler' means a boiler that has been inspected and declared unsafe or disqualified by legal requirements by an inspector, and a stamping or marking has been applied by the chief or a special inspector designating its condemnation.

11. 'Existing Installation' means includes any boiler constructed, installed, placed in operation, or contracted for before December 31, 2005.

12. 'Hot Water Storage Tank' means a closed vessel connected to a water heater used exclusively to contain potable water.

13. 'Lined Potable Water Heater' means a water heater with a corrosion-resistant lining used to supply potable hot water.

14. 'National Board' means the National Board of Boiler and Pressure Vessel Inspectors (NB), 1055 Crupper Avenue, Columbus, Ohio 43229, whose membership is composed of the chief boiler administrators of jurisdictions who are charged with the enforcement of the provisions of the Boiler and Pressure Vessel Safety Act.

15. 'National Board Inspection Code Ansi/Nb-23' means the code for jurisdictional authorities, inspectors, users, and organizations performing repairs and alterations to pressure-retaining items; published by the National Board.

16. 'National Board Commission' means a certificate issued by the National Board to an individual who has passed the National Board Examination, who holds a valid certificate of competency and who is regularly employed by an Authorized Inspection Agency.

17. 'National Board Commissioned Inspector' means an individual who holds a valid Certificate of Competency to perform in-service, repair and alteration inspections as defined by the National Board Inspection Code; holds a National Board commission; and is regularly employed as an inspector by an Authorized Inspection Agency.

18. 'New Boiler Installation' means includes all boilers constructed, installed, placed in operation or contracted for after December 31, 2005.

19. 'Nonstandard Boiler' means a boiler that does not bear a stamp acceptable to South Carolina, or otherwise does not comply with the Act or stated rules and regulations of this state.

20. 'Original Code of Construction' means documents promulgated by recognized national standards-writing bodies that contain technical requirements for construction of pressure retaining items or equivalent to which the original manufacturer certified the pressure-retaining item.

21. 'Owner or User' means any person, firm, or corporation legally responsible for the safe installation, operation, and maintenance of any boiler within South Carolina.

22. 'Pressure-Retaining Item (PRI)' means any boiler, pressure vessel, piping, or material used for the containment of pressure, either internal or external. The pressure may be obtained from an external source, or by the application of heat from a direct source, or any combination thereof.

23. 'PSIG' means pounds per square inch gauge.

24. 'Reinstalled Boiler' means a boiler removed from its original setting and reinstalled at the same location or at a new location without change of ownership.

25. 'Relief valve' means a pressure relief valve actuated by inlet static pressure having a gradual lift generally proportional to the increase in pressure over opening pressure. It may be provided with an enclosed spring housing suitable for closed discharge system application and is primarily used for liquid service.
26. 'Repair' means the work necessary to restore a pressure-retaining item to a safe and satisfactory operating condition.
27. 'Repair/Pressure Relief valve' means the replacement, re-machining, or cleaning of any critical part, lapping of seat and disk, or any other operation, which may affect the flow passage, capacity function, or pressure-retaining ability of the valve. Disassembly, reassembly, and/or adjustments, which affect the pressure relief valve function are also considered a repair.
28. 'Safety Relief valve' means depending on application, a pressure relief valve characterized by rapid opening or pop action, or by opening in proportion to the increase in pressure over opening pressure.
29. 'Safety valve' means a pressure relief valve actuated by inlet static pressure and characterized by rapid opening or pop action.
30. 'Secondhand Boiler' means a boiler, which has changed both location and ownership since primary use.
31. 'Standard Boiler' means a boiler which bears the stamp of South Carolina, the ASME stamp, the API/ASME stamp, both the ASME and National Board stamp, or the stamp of another jurisdiction which has adopted a standard of construction equivalent to that required by the Board.
32. 'Water Heater' means a closed vessel used to supply potable hot water which is heated by the combustion of fuels, electricity, or any other source and withdrawn for use external to the system at pressures not exceeding 160 psig, or a heat input of 200,000 BTU per hour, and shall include all controls and devices necessary to prevent water temperatures from exceeding 210 degrees Fahrenheit.

SUBARTICLE II.
ADMINISTRATION

71-9102. Administration.

A. Minimum Construction Standards for Boilers

1. All new boilers installed and operated in South Carolina, unless otherwise exempted, shall be designed and constructed in accordance with the ASME Code or a nationally recognized Code of Construction accepted by South Carolina. All new boilers installed in South Carolina shall be marked in accordance with the Code of Construction and shall be registered in accordance with NB-264, Criteria for Registration of Boilers, Pressure Vessels and Other Pressure-Retaining Items, or listed in accordance with NB-265, Criteria for Listing of Boilers, Pressure Vessels and Other Pressure-Retaining Items Not Registered with the National Board. Pressure-relieving devices shall be constructed to the ASME Code and certified by the National Board in accordance with NB-500, Criteria for Certification of Pressure Relief Devices. Copies of registration or listing documents shall be provided to the chief boiler administrator when requested.

2. State Special – a boiler that is of special design and construction where the owner has demonstrated that the special design and construction will provide an equivalent degree of safety to that of conformance with these regulations.

3. An application for permission to install a second hand boiler shall be filed before the owner or user installs the boiler with the chief boiler administrator and his/her approval obtained.

B. Frequency of Inspections of Boilers

1. Except as permitted in (a.) below, power boilers and high-temperature water boilers shall receive an inspection annually which shall be an internal inspection where construction permits; otherwise, it shall be as complete an inspection as possible. Such boilers shall also be inspected externally annually while under normal operating conditions.

a. Alternative internal inspection requirements:

i. Fully attended power boilers and high-temperature boilers are extended to thirty-six (36) months provided that the following requirements are met:

(a). Continuous boiler water treatment under the direct supervision of persons trained and experienced in water treatment for the purpose of controlling and limiting corrosion and deposits.

(b). Record-keeping available for review, showing:

(1) The date and time the boiler is out of service and the reason therefore.

(2) Daily analysis of water samples that adequately show the conditions of the water and elements or characteristics that are capable of producing corrosion or other deterioration to the boiler or its parts.

(c). Controls, safety devices, instrumentation, and other equipment necessary for safe operation are up-to-date, in service, calibrated, and meet the requirements of an appropriate safety code for that size boilers, such as NFPA 85, ASME CSD-1 Controls and Safety Devices for Automatically Fired Boilers, National Board Inspection Code ANSI/NB-23, jurisdictional requirements, and are not compromised.

2. Low-pressure boilers, water heaters, and hot water storage tanks covered by these rules and regulations shall receive an inspection biennially.

a. Steam or vapor boilers shall have an external inspection and an internal inspection every two years where construction permits;

b. Hot water heating and hot water supply boilers shall have an external inspection biennially and, where construction permits, an internal inspection at the discretion of the inspector;

c. Water heaters, including hot water storage tanks, shall have an external inspection every two years, which shall include the function of all controls and devices.

3. Based upon documentation of actual service conditions by the owner or user of the operating equipment, the Department of Labor, Licensing and Regulation may, in its discretion, permit variations in the inspection frequency requirements as provided in the Act.

4. Historical boilers, defined as steam boilers of riveted construction, preserved, restored, or maintained for hobby or demonstration use, shall be subjected to an initial inspection followed by an inspection every three (3) years thereafter if stored inside a shelter and annually if stored outdoors. The initial inspection shall include ultrasonic thickness testing of all pressure boundaries. All thinned areas shall be monitored and recorded on the inspection report.

C. Notification of Inspection

1. Inspections shall be carried out at a time mutually agreeable to the inspector and owner or user.

2. The inspector may perform external inspections during reasonable hours and without prior notification.

3. When, as a result of external inspection or determination by other objective means, it is the inspector's opinion that continued operation of the boiler constitutes a menace to public safety, the inspector may request an internal inspection or an appropriate pressure test, or both, to evaluate conditions. In such instances, the owner or user shall prepare the boiler, pressure vessel or nuclear system for such inspections or tests as the inspector may designate.

D. Examination for a Special Inspector's Certificate

1. An applicant for certification as a special inspector shall have qualifications as required by S.C. Code Section 41-14-80. Examination may be taken at any site approved by the National Board of Boiler and Pressure Vessel Inspectors.

2. The request for certification as a Special Inspector shall be completed on forms to be provided by the Department.

3. Each Special Inspector's certificate shall remain in effect until cancelled by the Department so long as the national commission (or other underlying state commission) is current. Failure to respond to a request for commission information shall result in immediate cancellation of the certificate.

E. Conflict of Interest

An inspector shall not engage in the sale of any services, article or device relating to boilers, pressure vessels, or their appurtenances.

F. Initial Inspection Reports to be Submitted by Special Inspectors or by the insurer:

1. Special Inspectors or the insurer shall submit an initial inspection report on a form approved by the department (or on a Form NB-5). The owner must have a special inspector or insurer submit this report within one year of the effective date of these rules and regulations.

2. Inspection reports shall be submitted within 30 days from date of completion of the inspection.

3. The Special Inspector or insurer shall forward a copy of the inspection report to the boiler user location within 30 days from the date of inspection. If the boiler fails the inspection, the Special Inspector or insurer shall submit a report to the boiler user location within 10 days of the inspection.

4. To initially register the boiler, the Special Inspector or insurer shall affix a department issued boiler registration number. The registration number shall be placed in a conspicuous position and visible to any inspector.

G. Special Inspectors to Notify Chief Boiler Administrator of Unsafe Boilers

If a special inspector finds a boiler to be unsafe for further operation, the special inspector shall promptly notify the owner or user, stating what repairs or other corrective measures are required to bring the object into compliance with these rules and regulations. Unless the owner or user makes such repairs or adopts such other corrective measures promptly, the special inspector shall immediately notify the chief boiler administrator who may issue a written order for the temporary cessation of operation of the boiler. When re-inspection establishes that the necessary repairs have been made or corrective actions have been taken and that the boiler is safe to operate, the chief boiler administrator shall be notified. At that time, the order for temporary cessation of operation will be rescinded.

H. Defective Conditions Disclosed at Time of External Inspection

If, upon an external inspection, there is evidence of a leak or crack, sufficient covering of the boiler shall be removed to permit the inspector to satisfactorily determine the safety of the boiler. If the covering cannot be removed at that time, he/she may order the operation of the boiler stopped until such time as the covering can be removed and proper examination made.

I. Owner or User to Notify Chief Boiler Administrator of Accident

When an accident occurs to a boiler which results in personal injury to any person or results in the emergency shut-down of the boiler, the owner or user shall promptly notify the chief boiler administrator and submit a detailed report of the accident. In the event of a personal injury or any explosion, notice shall be given immediately by telephone, or accepted means of electronic communication, and neither the boiler nor any parts thereof, shall be removed or disturbed before permission has been given by the Department of Labor, Licensing, and Regulation, except for the purpose of saving human life and limiting consequential damage. If the Department of Labor, Licensing, and Regulation cannot respond within 6 hours, the owner can proceed with repairs, but must document the as found conditions.

J. Filing of Subsequent Inspection Reports

1. If a boiler after inspection is found to be suitable and to conform to these rules and regulations, the owner or user shall file a copy of the inspection report or the certificate of insurance, which contains evidence identifying each boiler that was inspected and approved. Identifying evidence must include the boiler's national number, state number and physical location. This report may be made in an electronic format accepted by South Carolina or may be on a form approved by the department or on a Form NB-6 or 7.

2. The owner shall submit a filing fee in the amount of twenty five_dollars per boiler. Checks and money orders for payment of inspection report fees shall be made payable to the Department of Labor, Licensing and Regulation – Boiler Safety Program.

K. Stamping/Restamping of Boilers

1. The stamping shall not be concealed by lagging or paint and shall be exposed at all times unless a suitable record is kept of the location of the stamping so that it may be readily uncovered at any time this may be desired.

2. When the stamping on a boiler becomes indistinct, the inspector shall instruct the owner or user to have it re-stamped. Request for permission to re-stamp the boiler shall be made to the chief boiler administrator and proof of the original stamping shall accompany the request. The chief boiler administrator may grant such authorization. Re-stamping authorized by the Department of Labor, Licensing and Regulation shall be done only in the presence of a person holding a National Board Commission and shall be identical with the original stamping except for the ASME Code symbol stamp. Notice of completion of such stamping shall be filed with the chief boiler administrator by the inspector who witnessed the stamping on the boiler together with a facsimile of the stamping applied.

L. Condemned Boilers
Any boiler having been inspected and declared unfit for further service by an inspector shall be stamped by the chief boiler administrator on either side of the South Carolina identification number with the letters "XXX" as shown by the preceding facsimile, which will designate a condemned boiler.

M. Reinstallation of Boilers Moved Outside the Jurisdiction
When a standard boiler located within South Carolina is to be moved outside the state for temporary use or for repair, alteration, or modification, application shall be made by the owner or user to the chief boiler administrator for permission to reinstall the boiler in South Carolina. When a nonstandard boiler is removed from South Carolina, it shall not be reinstalled within the state.

N. Installation of Used or Secondhand Boilers
Before a used or secondhand boiler may be shipped for installation in South Carolina, an inspector holding a valid National Board commission must make an inspection, and the owner or user of the boiler shall file data submitted by him/her with the chief boiler administrator and with the local building official. Such boilers when installed in South Carolina shall be equipped with fittings and appurtenances that comply with the rules and regulations for new installations.

O. Reinstalled Boilers
When a stationary boiler is moved and reinstalled within South Carolina, the attached fittings and appurtenances shall comply with these rules and regulations for new installations.

P. Working Pressure for Existing Installations
Any inspector may decrease the working pressure on any existing installation if the condition of the boiler warrants it. If the owner or user does not concur with the inspector's decision, the owner or user may appeal to the Department.

Q. Safety Appliances

1. No person shall attempt to remove or do any work on any safety appliance prescribed by these rules and regulations while the appliance is subject to pressure.

2. Should any of these appliances be removed for repair during an outage of a boiler or pressure vessel, they must be reinstalled and in proper working order before the object is again placed in service.

3. No person shall alter any safety or safety relief valves or pressure relief devices in any manner to maintain a working pressure in excess of that stated on the report of the boiler or pressure vessel inspection.

R. Application of Serial Numbers

1. Upon completion of the installation of a boiler, or at the time of the initial inspection of an existing installation, each boiler shall be identified by a number unique to that item.

S. Variations

1. Any person who believes the boiler safety standards promulgated by the Department impose an undue burden upon the owner or user may request a variation from such rule or regulation. The request for variation shall be in writing and shall specify how equivalent safety is to be maintained. The Department, after

investigation and such hearing as it may direct, may grant such variation from the terms of any rule or regulation provided such special conditions as may be specified are maintained in order to provide equivalent safety.

2. A copy of the application for variation shall be given by the owner or use to affected employees and to the local fire authority, who shall be given adequate opportunity to respond in writing and to appear and offer evidence at any hearing.

3. When there is a reason to believe, or upon receipt of a complaint that a variation does not provide freedom from danger equivalent to the published rule or regulation, the Department after notice to the owner or user to the complainant and to the affected employees and the local fire authority and after such hearing and investigation as it may direct, may continue to reaffirm, suspend, revoke, or modify the conditions specified in any variation. No declaration, act, or omission of the Department, chief boiler administrator, or special inspectors, other than a written order authorizing a variation as permitted above, shall be deemed to exempt, either wholly or in part, expressly or implied, any owner or user from full compliance with the terms of any rule or regulation.

T. Temporary or Leased Boilers
The owner of a leased boiler shall provide to any person who leases it, documentation that the boiler is registered in accordance with NB-264 or 265 and a copy of its most recent inspection report, showing that it has been inspected according to the frequency provided in the act. South Carolina will recognize inspection reports by inspectors with valid commission from other jurisdictions.

SUBARTICLE III.
EXISTING INSTALLATION

All special inspectors shall apply the following standards to existing installations in South Carolina.

71-9103.1. Power Boilers.

A. EBO-1 Age Limit of Existing Boilers

1. The age limit of any boiler of nonstandard construction, installed prior to the date the Act became effective, shall be 30 years, except that a boiler having other than a lap-riveted longitudinal joint, after a thorough internal and external inspection and, when required by the inspector, a pressure test of 1-1/2 times the allowable working pressure held for a period of at least 30 minutes during which no distress or leakage develops, may be continued in operation at the working pressure determined by EB0-3. The age limit of any nonstandard boiler having lap-riveted longitudinal joints and operating at a pressure in excess of 50 psig shall be 20 years. This type of boiler, when removed from an existing setting, shall not be reinstalled for a pressure in excess of 15 psig. A reasonable time for replacement, not to exceed one year, may be given at the discretion of the Board.

2. The age limit of boilers of standard construction installed prior to the date this law became effective shall be dependent on thorough internal and external inspection and, where required by the inspector, a pressure test not exceeding 1-1/2 times the allowable working pressure. If the boiler, under these test conditions, exhibits no distress or leakage, it may be continued in operation at the working pressure determined by EB0-2.

3. The shell or drum of a boiler in which a lap seam crack develops along a longitudinal lap riveted joint shall be condemned. A lap seam crack is a crack found in lap seams extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.

B. EB0-2 Maximum Allowable Working Pressure for Standard Boilers
The maximum allowable working pressure for standard boilers shall be determined in accordance with the applicable provisions of the edition of the ASME Code under which they were constructed and stamped.

C. EB0-3 Maximum Allowable Working Pressure for Nonstandard Boilers

1. The maximum allowable working pressure for boilers fabricated by riveting shall be determined by the applicable rules of the 1971 Edition of Section I of the ASME Code. The lowest factor of safety permissible on existing installations shall be 5.0, except for horizontal-return-tubular boilers having continuous longitudinal lap

seams more than 12 ft. in length, where the factor of safety shall be 8. When this latter type of boiler is removed from its existing setting, it shall not be reinstalled for pressures in excess of 15 psig.

2. The maximum allowable working pressure for boilers of welded construction in service may not exceed that allowable in Section I of the ASME Code for new boilers of the same construction. The maximum allowable working pressure on the shell of a boiler or drum shall be determined by the strength of the weakest course computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint, the inside diameter of the course, and the factor of safety allowed by these rules in accordance with the following formula:

(TS)(t)(E)(R)(FS) = maximum allowable working pressure, psig where:

(TS) = specified minimum tensile strength of shell plate material, psi. When the tensile strength of steel or wrought-iron shell plate is not known, it shall be taken as 55,000 psi for steel and 45,000 psi for wrought iron

(t) = minimum thickness of shell plate, in weakest course, inches

(E) = efficiency of longitudinal joint, method of determining which is given in Paragraph PG-27 of Section I of the ASME Code

(R) = inside radius of the weakest course of the shell or drum, inches

(FS) = factor of safety, which shall be at least 5.0

3. The inspector may increase the factor of safety, if the condition and safety of the boiler warrant it.

D. EB0-4 Cast-Iron Headers and Mud Drums

The maximum allowable working pressure on a water tube boiler, the tubes of which are secured to cast-iron or malleable iron headers, or which have cast-iron mud drums, shall not exceed 160 psig.

E. EB0-5 Pressure on Cast-Iron Boilers

The maximum allowable working pressure for any cast-iron boiler, except hot water boilers, shall be 15 psig. See EHB-1, 2, and 4.

F. EB0-6 Safety Valves

1. The use of weighted-lever safety valves or safety valves having either the seat or disk of cast-iron are prohibited; valves of this type of construction shall be replaced by direct, spring loaded, pop-type valves that conform to the requirements of ASME Code, Section 1.

2. Each boiler shall have at least one ASME/NB stamped and certified safety valve, and if it is a high pressure boiler with a high pressure more than 500 sq. ft. of water-heating surface, or an electric power input of more than 1,100 KW, it shall have two or more safety valves of the same type.

3. The valve or valves shall be connected to the boiler, independent of any other steam connection and attached as close as possible to the boiler without unnecessary intervening pipe or fittings. Where alteration is required to conform to this requirement, owners or users shall be allowed reasonable time in which to complete the work as permitted by the chief boiler administrator.

4. No valves of any description shall be placed between the safety valve and the boiler or on the escape pipe, if used. When an escape pipe is used, it shall be at least the full size of the safety valve discharge and fitted with an open drain to prevent water lodging in the upper part of the safety valve or in the escape pipe. When an elbow is placed on a safety valve escape pipe, it shall be located close to the safety valve outlet, or the escape pipe shall be anchored and supported securely. All safety discharges shall be located and carried by a pipe clear from walkways or platforms.

5. The safety valve capacity of each boiler shall be such that the safety valve or valves will discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than 6 percent above the highest pressure to which any valve is set, and in no case to more than 6 percent above the maximum allowable working pressure.

6. One or more safety valves on every boiler shall be set at or below the maximum allowable working pressure. The remaining valves may be set within a range of 3 percent above the maximum allowable working pressure, but the range of setting of all the safety valves on a boiler shall not exceed 10 percent of the highest pressure to which any valve is set.

7. When boilers of different maximum allowable working pressures with minimum safety valve settings varying more than 6 percent are so connected that steam can flow toward the lower pressure units, the latter shall be protected by additional safety valve capacity, if necessary, on the lower pressure side of the system. The additional safety valve capacity shall be based upon the maximum amount of steam, which can flow into the lower pressure system.

8. In those cases where the boiler is supplied with feed water directly from water mains without the use of feeding apparatus (not to include return traps), no safety valve shall be set at a pressure greater than 94 percent of the lowest pressure obtained in the supply main feeding the boiler.

9. The relieving capacity of the safety valves on any boiler shall be checked by one of the following three methods and, if found to be insufficient, additional valves shall be provided:

a. By making an accumulation test, which consists of shutting off all other steam discharge outlets from the boiler and forcing the fires to the maximum. The safety valve capacity shall be sufficient to prevent a rise of pressure in excess of 6 percent of the maximum allowable working pressure. This method should not be used on a boiler with a super heater or re-heater;

b. By measuring the maximum amount of fuel that can be burned and computing the corresponding evaporative capacity (steam-generating capacity) upon the basis of the heating value of this fuel. These computations shall be made as outlined in the Appendix of the ASME Code, Section l;

c. By measuring the maximum amount of feed water that can be evaporated.

d. When either of the methods outlined in b or c is employed, the sum of the safety valve capacities shall be equal to or greater than the maximum evaporative capacity (maximum steam-generating capacity) of the boiler.

G. EB0-7 Boiler Feeding

Each boiler shall have a feed supply, which will permit it to be fed at any time while under pressure. A boiler having more than 500 sq. ft. of water heating surface shall have at least two suitable means of feeding, at least one of which shall be a feed pump. A source of feed at a pressure 6 percent greater than the set pressure of the safety valve with the highest setting may be considered one of the means. Boilers fed by gaseous, liquid, or solid fuel in suspension may be equipped with a single means of feeding water, provided means are furnished for the shutoff of heat input prior to the water level reaching the lowest safe level. The feed water shall be introduced into a boiler in such a manner that the water will not be discharged directly against surfaces exposed to gases of high temperature to direct radiation from the fire. For pressures of 400 psig or over, the feed water inlet through the drum shall be fitted with shields, sleeves, or other suitable means to reduce the effects of temperature differentials in the shell or head. The feed piping to the boiler shall be provided with a check valve near the boiler and a valve or cock between the check valve and the boiler. When two or more boilers are fed from a common source, there shall also be a valve on the branch to each boiler between the check valve and the source of supply. Whenever a globe valve is used on feed piping, the inlet shall be under the disk of the valve. In all cases where returns are fed back to the boiler by gravity, there shall be a check valve and stop valve in each return line, the stop valve to be placed between the boiler and the check valve, and both shall be located as close to the boiler as is practicable. It is recommended that no stop valves be placed in the supply and return pipe connections of a single boiler installation. Where deaerating heaters are not employed, it is recommended that the temperature of the feed water be not less than 120°F to avoid the possibility of setting up localized stress. Where deaerating heaters are employed, it is recommended that the minimum feed water temperature be not less than 215°F so that dissolved gases may be thoroughly released.

H. EB0-8 Water Level Indicators

1. Each boiler, except forced-flow steam generators with no fixed steam and waterline, and high temperature water boilers of the forced circulation type that have no steam and waterline, shall have at least one water gauge glass. Boilers operated at pressures over 400 psig shall be provided with two water gauge glasses which may be connected to a single water column or connected directly to the drum.

2. Two independent remote level indicators may be provided instead of one of the two required gauge glasses for boiler drum water level indication in the case of power boilers with all drum safety valves set at or above 900 psig. When both remote level indicators are in reliable operation, the remaining gauge glass may be shut off, but shall be maintained in serviceable condition.

3. When the direct reading of the gauge glass water level is not readily visible to the operator in his/her working area, two dependable indirect indications shall be provided, either by transmission of the gauge glass image or by remote level indicators.

4. The lowest visible part of the water gauge glass shall be at least 2 in. above the lowest permissible water level, at which level there will be no danger of overheating any part of the boiler when in operation at that level. When remote level indication is provided for the operator in lieu of the gauge glass, the same minimum level reference shall be clearly marked.

5. Connections from the boiler to the remote level indicator shall be at least 3/4 in. pipe size to and including the isolation valve and from there to the remote level indicator at least 1/2 in. O.D. tubing. These connections shall be completely independent of other connections for any function other than water level indication. For pressures of 400 psig or over, lower connections to drums shall be provided with shields, sleeves, or other suitable means to reduce temperature differentials in the shells or heads.

6. Boilers of the horizontal fire tube type shall be set so that when the water is at the lowest reading in the water gauge glass, there shall be at least 3 in. of water over the highest point of the tubes, flues, or crown sheets.

7. Boilers of locomotives shall have at least one water glass provided with top and bottom shutoff cocks and lamp, and two gauge cocks for boilers 36 in. in diameter and under, and three gauge cocks for boilers over 36 in. in diameter.

8. The lowest gauge cock and the lowest reading of water glass shall not be less than 2 in. above the highest point of crown sheet on boilers 36 in. in diameter and under, nor less than 3 in. for boilers over 36 in. in diameter. These are minimum dimensions, and on larger locomotives and those operating on steep grades, the height should be increased, if necessary, to compensate for change of water level on descending grades.

9. The bottom mounting for water glass and for water column if used must extend not less than 1-1/2 in. inside the boiler and beyond any obstacle immediately above it, and the passage therein must be straight and horizontal.

10. Tubular water glasses must be equipped with a protecting shield.

11. All connections on the gauge glass shall be not less than 1/2 in. pipe size. Each water gauge glass shall be fitted with a drain cock or valve having an unrestricted drain opening of not less than 1/4 in. diameter to facilitate cleaning. When the boiler operating pressure exceeds 100 psig, the glass shall be furnished with a connection to install a valved drain to the ash pit or other safe discharge point.

12. Each water gauge glass shall be equipped with a top and a bottom shutoff valve of such through-flow construction as to prevent stoppage by deposits of sediments. If the lowest valve is more than 7 ft. above the floor or platform from which it is operated, the operating mechanism shall indicate by its position whether the valve is open or closed. The pressure-temperature rating shall be at least equal to that of the lowest set pressure of any safety valve on the boiler drum and the corresponding saturated-steam temperature.

13. Straight-run globe valves shall not be used on such connections.

14. Automatic shutoff valves, if permitted to be used, shall conform to the requirements of Section I of the ASME Code.

I. EBO-9 Water Columns

1. The water column shall be so mounted that it will maintain its correct position relative to the normal waterline under operating conditions.

2. The minimum size of pipes connecting the water column to a boiler shall be 1 in. For pressures of 400 psig or over, lower water column connections to drums shall be provided with shields, sleeves, or other suitable means to reduce the effect of temperature differentials in the shells or heads. Water glass fittings or gauge cocks may be connected directly to the boiler.

3. The steam and water connections to a water column or a water gauge glass shall be such that they are readily accessible for internal inspection and cleaning. Some acceptable methods of meeting this requirement are by providing a cross or fitting with a back outlet at each right-angle turn to permit inspection and cleaning in both directions, or by using pipe bends or fittings of a type which does not leave an internal shoulder or pocket in the pipe connection and with a radius of curvature which will permit the passage of a rotary cleaner. Screwed plug closures using threaded connections as allowed by Section I of the ASME Code are acceptable means of access for this inspection and cleaning. For boilers with all drum safety valves set at or above 400 psig, socket-welded plugs may be used for this purpose in lieu of screwed plugs. The water column shall be fitted with a connection

for a drain cock or drain valve to install a pipe of at least 3/4 in. pipe size to the ash pit or other safe point of discharge. If the water connection to the water column has a rising bend or pocket, which cannot be drained by means of the water column drain, an additional drain shall be placed on this connection in order that it may be blown off to clear any sediment from the pipe.

4. The design and material of a water column shall comply with the requirements of Section I of the ASME Code. Water columns made of cast iron in accordance with SA-278 may be used for maximum boiler pressures not exceeding 250 psig. Water columns made of ductile iron in accordance with SA-395 may be used for maximum boiler pressures not exceeding 350 psig. For higher pressures, steel construction shall be used.

5. Shutoff valves shall not be used in the pipe connections between a boiler and a water column or between a boiler and the shutoff valves required for the gauge glass, unless they are either outside-screw-and-yoke or lever-lifting-type gate valves or stopcocks with lever permanently fastened thereto and marked in line with their passage, or of such other through-flow construction as to prevent stoppage by deposits of sediment, and to indicate by the position of the operating mechanisms whether they are in open or closed position; and such valves or cocks shall be locked or sealed open. Where stopcocks are used, they shall be of a type with the plug held in place by a guard or gland.

6. No outlet connections, except for control devices (such as damper regulators and feed water regulators), drains, steam gauges, or apparatus of such form as does not permit the escape of an appreciable amount of steam or water there from, shall be placed on the pipes connecting a water column or gauge glass to a boiler.

J. EB0-10 Gauge Glass Connections

Gauge glasses and gauge cocks that are not connected directly to a shell or drum of the boiler shall be connected by one of the following methods:

1. The water gauge glass or glasses and gauge cocks shall be connected to an intervening water column.

2. When only water gauge glasses are used, they may be mounted away from the shell or drum and the water column omitted, provided the following requirements are met.

a. The top and bottom gauge glass fittings are aligned, supported, and secured so as to maintain the alignment of the gauge glass;

b. The steam and water connections are not less than 1 in. pipe size and each water glass is provided with a valved drain; and

c. The steam and water connections comply with the requirements of the following:

i. the lower edge of the steam connection to a water column or gauge glass in the boiler shall not be below the highest visible water level in the water gauge glass. There shall be no sag or offset in the piping which will permit the accumulation of water; and

ii. the upper edge of the water connection to a water column or gauge glass and the boiler shall not be above the lowest visible water level in the gauge glass. No part of this pipe connection shall be above the point of connection at the water column.

3. Each boiler (except those not requiring water level indicators) shall have three or more gauge cocks located within the visible length of the water glass, except when the boiler has two water glasses located on the same horizontal lines.

4. Boilers not over 36 in. in diameter in which the heating surface does not exceed 100 sq. ft. need have but two gauge cocks.

5. The gauge cock connections shall be not less than 1/2 in. pipe size.

K. EB0-11 Pressure Gauges

Each boiler shall have a pressure gauge so located that it is easily readable. The pressure gauge shall be installed so that it shall at all times indicate the pressure in the boiler. Each steam boiler shall have the pressure gauge connected to the steam space or to the water column or its steam connection. A valve or cock shall be placed in the gauge connection adjacent to the gauge. An additional valve or cock may be located near the boiler, providing it is locked or sealed in the open position. No other shutoff valves shall be located between the gauge and the boiler. The pipe connection shall be of ample size and arranged so that it may be cleared by blowing out. For a steam boiler, the gauge or connection shall contain a siphon or equivalent device, which will develop and maintain a water seal that will prevent steam from entering the gauge tube. Pressure gauge connections shall be

suitable for the maximum allowable working pressure and temperature but if the temperature exceeds 406°F, brass or copper pipe or tubing shall not be used. The connections to the boiler, except the siphon (if used), shall not be less than 1/4 in. inside diameter standard pipe size. But where steel or wrought iron pipe or tubing is used they shall not be less than 1/2 in. The minimum size of a siphon (if used) shall be 1/4 in. inside diameter. The dial of the pressure gauge shall be graduated to approximately double the pressure at which the safety valve is set, but in no case to less than 1-1/2 times this pressure. Each forced-flow steam generator with no fixed steam and waterline shall be equipped with pressure gauges or other pressure-measuring devices located as follows:

1. At the boiler or super heater outlet (following the last section which involves absorption of heat).

2. At the boiler or economizer inlet (preceding any section which involves absorption of heat).

3. Upstream of any shutoff valve, which may be used between any two sections of the heat-absorbing surface.

Each high-temperature water boiler shall have a temperature gauge so located and connected that it shall be easily readable. The temperature gauge shall be installed so that it, at all times, indicates the temperature in degrees Fahrenheit of the water in the boiler, at or near the outlet connection.

L. B0-12 Stop Valves

1. Each steam outlet from a boiler (except safety valve and water column connections) shall be fitted with a stop valve located as close as practicable to the boiler.

2. When a stop valve is so located that water can accumulate, ample drains shall be provided. The drainage shall be piped to a safe location and shall not be discharged on the top of the boiler or its setting.

3. When boilers provided with manholes are connected to a common steam main, the steam piping connected from each boiler shall be fitted with two stop valves having an ample free blow drain between them. The discharge of the drain shall be visible to the operator while manipulating the valves and shall be piped clear of the boiler setting. The stop valves shall consist preferably of one automatic non-return valve (set next to the boiler) and a second valve of the outside-screw-and-yoke type.

M. EB0-13 Blow Off Piping

1. A blow off as required herein is defined as a pipe connection provided with valves located in the external piping through which the water in the boiler may be blown out under pressure, excepting drains such as are used on water columns, gauge glasses, or piping to feed water regulators, etc., used for the purpose of determining the operating conditions of such equipment. Piping connections used primarily for continuous operation, such as de-concentrators on continuous blow down systems, are not classed as blow offs, but the pipe connections and all fittings up to and including the first shutoff valve shall be equal at least to the pressure requirements for the lowest set pressure of any safety valve on the boiler drum and with the corresponding saturated-steam temperature.

2. A surface blow off shall not exceed 2-1/2 in. pipe size, and the internal pipe and the terminal connection for the external pipe, when used, shall form a continuous passage, but with clearance between their ends and arranged so that the removal of either will not disturb the other. A properly designed steel bushing, similar to or the equivalent of those shown in Fig. PG-59.1 of Section I of the ASME Code, or a flanged connection shall be used.

3. Each boiler, except forced-flow steam generators with no fixed steam and waterline and high-temperature water boilers, shall have a bottom blow off outlet in direct connection with the lowest water space practicable for external piping conforming to PG-58.3.6 of Section I of the ASME Code.

4. All water walls and water screens which do not drain back into the boiler, and all integral economizers, shall be equipped with outlet connections for a blow off or drain line and conform to the requirements of PG-58.3.6 or PG-58.3.7 of the ASME Code.

5. Except as permitted for miniature boilers, the minimum size of pipe and fittings shall be 1 in., and the maximum size shall be 2-1/2 in., except that for boilers with 100 sq. ft. of heating surface or less; the minimum size of pipe and fittings may be 3/4 in.

6. Condensate return connections of the same size or larger than the size herein specified may be used, and the blow off may be connected to them. In such cases, the blow off shall be so located that the connection may be completely drained.

7. A bottom blow off pipe when exposed to direct furnace heat shall be protected by firebrick or other heat-resisting material, which is so arranged that the pipe may be inspected. An opening in the boiler setting for a blow off pipe shall be arranged to provide free expansion and contraction.

N. Repairs and Renewals of Boiler Fittings and Appliances
Whenever repairs are made to fittings or appliances or it becomes necessary to replace them, the work shall comply with the requirements for new installations.

O. EB0-15 Conditions Not Covered By These Requirements
All cases not specifically covered by these requirements shall be treated as new installations or may be referred to the chief boiler administrator for instructions concerning the requirements.

71-9103.2. Heating Boilers

A. EHB-1 Standard Boilers
The maximum allowable working pressure of standard boilers shall in no case exceed the pressure indicated by the manufacturer's identification stamped or cast on the boiler or on a plate secured to it.

B. EHB-2 Nonstandard Riveted Boilers
The maximum allowable working pressure on the shell of a nonstandard riveted heating boiler shall be determined in accordance with EB0-3 of 71-9103.1.(C), except that in no case shall the maximum allowable working pressure of a steam-heating boiler exceed 15 psig, or a hot water boiler exceed 160 psig or 250°F temperature.

C. EHB-3 Nonstandard Welded Boilers
The maximum allowable working pressure of a nonstandard steel or wrought iron heating boiler of welded construction shall not exceed 15 psig for steam. For other than steam service, the maximum allowable working pressure shall be calculated in accordance with Section IV of the ASME Code, but in no case shall it exceed 30 psig.

D. EHB-4 Nonstandard Cast-Iron Boilers

1. The maximum allowable working pressure of a nonstandard boiler composed principally of cast iron shall not exceed 15 psig for steam service or 30 psig for hot water service.

2. The maximum allowable working pressure of a nonstandard boiler having cast-iron shell or heads and steel or wrought-iron tubes shall not exceed 15 psig for steam service or 30 psig for hot water service.

E. EHB-5 Potable Water Heaters
A potable water heater shall not be installed or used at pressures exceeding 160 psig or water temperatures exceeding 210°F.

F. EHB-6 Safety Valves

1. Each steam boiler shall have one or more ASME/National Board-stamped and certified safety valves of the spring pop-type adjusted and sealed to discharge at a pressure not to exceed 15 psig. Seals shall be attached in a manner to prevent the valve from being disassembled without breaking the seal. The safety valves shall be arranged so that they cannot be reset to relieve at a higher pressure than the maximum allowable working pressure on the boiler. The manufacturer shall provide a body drain connection below seat level and this drain shall not be plugged during or after field inspection. For valves exceeding 2-1/2 in. pipe size, the drain hole or holes shall be tapped not less than 3/8 in. pipe size. For valves 2-1/2 in. in pipe size and smaller, the drain hole shall not be less than 1/4 in. in diameter.

2. No safety valve for a steam boiler shall be smaller than 1/2 in. No safety valve shall be larger than 4-1/2 in. The inlet opening shall have an inside diameter equal to, or greater than, the seat diameter.

3. The minimum relieving capacity of the valve or valves shall be governed by the capacity marking on the boiler.

4. The minimum valve capacity in pounds per hour shall be the greater of that determined by dividing the maximum BTU output at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1,000, or shall be determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface as given in Table EHB-6. In many cases a greater relieving capacity of valves than the minimum specified by these rules will have to be provided. In every case, the requirements of EHB-6(5) shall be met.

TABLE EHB-6
Minimum Pounds of Steam Per Hour Per Square Foot of Heating Surface

	Fire tube Boilers	**Water tube Boilers**
Boiler Heating Surface:		
Hand-fired	5	6
Stoker-fired	7	8
Oil, gas, or pulverized fuel-fired	8	10
Water wall Heating Surface:		
Hand-fired	8	8
Stoker-fired	10	12
Oil, gas, or pulverized fuel-fired	14	16

a. When a boiler is gas fed and does not have a heat value in excess of 200 BTU per cu. ft., the minimum safety valve or safety relief valve relieving capacity may be based on the value given for hand fed boilers above.

b. The minimum safety valve or safety relief valve relieving capacity for electric boilers shall be 3-1/2 pounds per hour per kilowatt input.

c. For heating surface determination see ASME Code Section IV, Paragraph HG-403.

5. The safety valve capacity for each steam boiler shall be such that with the fuel burning equipment installed and operating at maximum capacity, the pressure cannot rise more than 5 psig above the maximum allowable working pressure.

6. When operating conditions are changed, or additional boiler heating surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions and be in accordance with EHB-6(5). When additional valves are required, they may be installed on the outlet piping provided there is no intervening valve.

7. If there is any doubt as to the capacity of the safety valve, an accumulation test shall be run (See ASME Code, Section VI, Recommended Rules for Care and Operation of Heating Boilers).

8. No valve of any description shall be placed between the safety valve and the boiler, or on the discharge pipe between the safety valve and the atmosphere. The discharge pipe shall be at least full size and be fitted with an open drain to prevent water lodging in the upper part of the safety valve or in the discharge pipe. When an elbow is placed on the safety valve discharge pipe, it shall be located close to the safety valve outlet or the discharge pipe shall be securely anchored and supported. All safety valve discharges shall be so located or piped as not to endanger persons working in the area.

G. EHB-7 Safety Relief Valve Requirements for Hot Water Heating and Hot Water Supply Boilers

1. Each hot water heating and hot water supply boiler shall have at least one ASME/National Board-stamped and certified safety relief valve set to relieve at or below the maximum allowable working pressure of the boiler. Each hot water supply boiler shall have at least one ASME-National Board-stamped and certified safety relief valve of the automatic reseating type set to relieve at or below maximum allowable working pressure of the boiler. Safety relief valves ASME-National Board-stamped and certified as to capacity shall have pop action when tested by steam. When more than one safety relief valve is used on either a hot water heating or hot water supply boiler, the additional valve or valves shall be ASME National Board-stamped and certified and may be set within a range not to exceed 6 psig above the maximum allowable working pressure of the boiler up to and including 60

psig and 5 percent for those having a maximum allowable working pressure exceeding 60 psig. Safety relief valves shall be spring-loaded. Safety relief valves shall be so arranged that they cannot be reset at a higher pressure than the maximum permitted by this paragraph.

2. No materials liable to fail due to deterioration or vulcanization when subject to saturated steam temperature corresponding to capacity test pressure shall be used for any part.

3. No safety relief valve shall be smaller than 3/4 in. nor larger than 4-1/2 in. standard pipe size, except that boilers having a heat input not greater than 15,000 BTU per hour may be equipped with a safety relief valve of 1/2 in. standard pipe size. The inlet opening shall have an inside diameter approximately equal to, or greater than, the seat diameter. In no case shall the minimum opening through any part of the valve be less than 1/4 in. in diameter or its equivalent area.

4. The required steam-relieving capacity, in pounds per hour, of the pressure relieving device or devices on a boiler shall be the greater of that determined by dividing the maximum output in BTU at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1,000 or shall be determined on the basis of pounds of steam generated per hour per square foot of boiler heating surface as given in Table EHB-6. In many cases, a greater relieving capacity of valves will have to be provided than the minimum specified by these rules. In every case, the requirements of EHB-7(6) shall be met.

5. When operating conditions are changed, or additional boiler heating surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions and shall be in accordance with EHB-7(6). The additional valves required, on account of changed conditions, may be installed on the outlet piping provided there is no intervening valve.

6. Safety relief valve capacity for each boiler shall be such that, with the fuel burning equipment installed and operated at maximum capacity, the pressure cannot rise more than 10 percent above the maximum allowable working pressure. When more than one safety relief valve is used, the over-pressure shall be limited to 10 percent above the set pressure of the highest set valve allowed by EHB-6(1).

7. If there is any doubt as to the capacity of the safety relief valve, an accumulation test shall be run (See ASME Code, Section VI, Recommended Rules for Care and Operation of Heating Boilers).

8. No valve of any description shall be placed between the safety relief valve and the boiler, or on the discharge pipe between the safety relief valve and the atmosphere. The discharge pipe shall be not less than the diameter of the safety relief valve outlet and fitted with an open drain to prevent water lodging in the upper part of the safety relief valve or in the discharge pipe. When an elbow is placed on the safety relief valve discharge pipe, it shall be located close to the safety relief valve outlet, or the discharge pipe shall be securely anchored and supported. All safety relief valve discharges shall be so located or piped as not to endanger persons working in the area.

H. EHB-8 Steam Gauges

1. Each steam boiler shall have a steam gauge or a compound steam gauge connected to its steam space or to its water column or to its steam connection. The gauge or connection shall contain a siphon or equivalent device which will develop and maintain a water seal that will prevent steam from entering the gauge tube. The connection shall be so arranged that the gauge cannot be shut off from the boiler except by a cock placed in the pipe at the gauge and provided with a tee or lever handle arranged to be parallel to the pipe in which it is located when the cock is open. The connections to the boiler shall be not less than 1/4 in. standard pipe size, but where steel or wrought-iron pipe or tubing is used, they shall be not less than 1/2 in. standard pipe size. The minimum size of a siphon, if used, shall be 1/4 in. inside diameter. Ferrous and nonferrous tubing having inside diameters at least equal to that of standard pipe sizes listed above may be substituted for pipe.

2. The scale on the dial of a steam boiler gauge shall be graduated to not less than 30 psig nor more than 60 psig. The travel of the pointer from 0 to 30 psig pressure shall be at least 3 in.

I. EHB-9 Pressure or Altitude Gauges and Thermometers

1. Each hot water boiler shall have a pressure or altitude gauge connected to it or to its flow connection in such a manner that it cannot be shut off from the boiler except by a cock with tee or lever handle, placed on the pipe near the gauge. The handle of the cock shall be parallel to the pipe in which it is located when the cock is open.

2. The scale on the dial of the pressure or altitude gauge shall be graduated approximately to not less than 1-1/2 nor more than three times the pressure at which the safety relief valve is set.

3. Piping or tubing for pressure or altitude-gauge connections shall be of nonferrous metal when smaller than 1 in. pipe size.

4. Each hot water boiler shall have a thermometer so located and connected that it shall be easily readable when observing the water pressure or altitude. The thermometer shall be so located that it shall at all times indicate the temperature in degrees Fahrenheit of the water in the boiler at or near the outlet.

J. EHB-10 Water Gauge Glasses

1. Each steam boiler shall have one or more water gauge glasses attached to the water column or boiler by means of valved fittings not less than 1/2 in. pipe size, with the lower fitting provided with a drain valve of a type having an unrestricted drain opening not less than 1/4 in. in diameter to facilitate cleaning. Gauge glass replacement shall be possible under pressure. Water glass fittings may be attached directly to a boiler.

2. Boilers having an internal vertical height of less than 10 in. may be equipped with a water level indicator of the glass bull's-eye type provided the indicator is of sufficient size to show the water at both normal operating and low-water cutoff levels.

3. The lowest visible part of the water gauge glass shall be at least 1 in. above the lowest permissible water level recommended by the boiler manufacturer. With the boiler operating at this lowest permissible water level, there shall be no danger of overheating any part of the boiler.

4. Each boiler shall be provided at the time of manufacture with a permanent marker indicating the lowest permissible water level. The marker shall be stamped, etched, or cast in metal; or it shall be a metallic plate attached by rivets, screws, or welding; or it shall consist of material with documented tests showing its suitability as a permanent marking for the application. This marker shall be visible at all times. Where the boiler is shipped with a jacket, this marker may be located on the jacket.

5. In electric boilers of the submerged electrode type, the water gauge glass shall be so located to indicate the water levels both at startup and under maximum steam load conditions as established by the manufacturer.

6. In electric boilers of the resistance heating element type, the lowest visible part of the water gauge glass shall not be below the top of the electric resistance-heating element. Each boiler of this type shall also be equipped with an automatic low-water electrical power cutoff so located as to automatically cut off the power supply before the surface of the water falls below the top of the electrical resistance heating elements.

7. Tubular water glasses on electric boilers having a normal water content not exceeding 100 gal. shall be equipped with a protective shield.

K. EHB-11 Stop Valves

1. When a stop valve is used in the supply pipe connection of a single steam boiler, there shall be one used in the return pipe connection.

2. Stop valves in single hot water heating boilers shall be located at an accessible point in the supply and return pipe connections, as near the boiler nozzle as is convenient and practicable, to permit draining the boiler without emptying the system.

3. When the boiler is located above the system and can be drained without draining the system, stop valves may be eliminated.

4. A stop valve shall be used in each supply and return pipe connection of two or more boilers connected to a common system.

5. All valves or cocks shall conform to the applicable portions of HF-203 of Section IV of the ASME Code and may be ferrous or nonferrous.

6. The minimum pressure rating of all valves or cocks shall be at least equal to the pressure stamped upon the boiler, and the temperature rating of such valves or cocks, including all internal components, shall be not less than 250°F.

7. Valves or cocks shall be flanged, threaded or have ends suitable for welding or brazing.

8. All valves or cocks with stems or spindles shall have adjustable pressure-type packing glands and, in addition, all plug-type cocks shall be equipped with a guard or gland. The plug or other operating mechanism shall be distinctly marked in line with the passage to indicate whether it is opened or closed.

9. All valves or cocks shall have tight closure when under boiler pressure test.

10. When stop valves are used, tags of metal or other durable material fastened to them shall properly designate them substantially.

L. EHB-12 Feed Water Connections

1. Feed water, makeup water, or water treatment shall be introduced into a boiler through the return piping system. Alternatively, makeup water or water treatment may be introduced through an independent connection. The water flow from the independent connection shall not discharge directly against parts of the boiler exposed to direct radiant heat from the fire. Makeup water or water treatment shall not be introduced through openings or connections provided for inspection or cleaning, safety valve, safety relief valve, blow off, water column, water gauge glass, pressure gauge, or temperature gauge.

2. The makeup water pipe shall be provided with a check valve near the boiler and a stop valve or cock between the check valve and the boiler or between the check valve and the return pipe system.

M. EHB-13 Water Column and Water Level Control Pipes

1. The minimum size of ferrous or nonferrous pipes connecting a water column to a steam boiler shall be 1 in. No outlet connections, except for damper regulator, feed water regulator, steam gauges, or apparatus which does not permit the escape of any steam or water except for manually operated blow downs, shall be attached to a water column or the piping connecting a water column to a boiler (see HG-705 of Section IV of the ASME Code for introduction of feed water into a boiler). If the water column, gauge glass, low-water fuel cutoff, or other water level control device is connected to the boiler by pipe and fittings, no shutoff valves of any type shall be placed in such pipe, and a cross or equivalent fitting to which a drain valve and piping may be attached shall be placed in the water piping connection at every right-angle turn to facilitate cleaning. The water column drainpipe and valve shall be not less than 3/4 in. pipe size.

2. The steam connections to the water column of a horizontal fire tube wrought-iron boiler shall be taken from the top of the shell or the upper part of the head, and the water connection shall be taken from a point not above the centerline of the shell. For a cast-iron boiler, the steam connection to the water column shall be taken from the top of an end section or the top of the steam header, and the water connection shall be made on an end section not less than 6 in. below the bottom connection to the water gauge glass.

N. EHB-14 Return Pump

Each boiler equipped with a condensate return pump shall be provided with a water level control arranged to automatically maintain the water level in the boiler within the range of the gauge glass.

O. EHB-15 Repairs and Renewals of Fittings and Appliances

Whenever repairs are made to fittings or appliances, or it becomes necessary to replace them, the repairs must comply with Section IV of the ASME Code for new construction.

SUBARTICLE IV.
GENERAL REQUIREMENTS

71-9104. General Requirements.

A. GR-1 Inspection of Boilers

All boilers not exempted by the Act or by rules and regulations promulgated under the Act and which are subject to regular inspections shall be prepared for such inspections as required in GR-2.

B. GR-2 Preparation for Inspection

The owner or user shall prepare each boiler for inspection, and shall prepare for and apply a hydrostatic or pressure test, whenever necessary, on the date arranged by the inspector which shall not be less than seven (7) days after the date of notification.

1. Boilers – the owner or user shall prepare a boiler for internal inspection in the following manner:

a. Water shall be drawn off and the boiler washed thoroughly;

b. Manhole and hand hole plates, washout plugs, and inspection plugs in water column connections shall be removed as required by the inspector. The furnace and combustion chambers shall be cooled and thoroughly cleaned;

c. All grates of internally fired boilers shall be removed if required by the inspector;

d. Insulation or brickwork shall be removed as required by the inspector in order to determine the condition of the boiler, headers, furnace, supports, or other parts;

e. The pressure gauge shall be removed for testing as required by the inspector;

f. Any leakage of steam or hot water into the boiler shall be prevented by disconnecting the pipe or valve at the most convenient point or any appropriate means approved by the inspector; and

g. Before opening the manhole or hand hole covers and entering any parts of the steam-generating unit connected to a common header with other boilers, the non return and steam stop valves must be closed, tagged, and padlocked, and drain valves or cocks between the two valves opened. The feed valves must be closed, tagged, and padlocked, and drain valves or cocks located between the two valves opened. After draining the boiler, the blow off valves shall be closed, tagged, and padlocked. Blow off lines, where practicable, shall be disconnected between pressure parts and valves. All drains and vent lines shall be opened.

C. GR-3 Boilers Improperly Prepared for Inspection

If a boiler has not been properly prepared for an internal inspection, or if the owner or user fails to comply with the requirements for a pressure test as set forth in these rules, the inspector may decline to make the inspection or test.

D. GR-4 Removal of Covering to Permit Inspection

If, upon an external inspection, there is evidence of a leak or crack, sufficient covering of the boiler shall be removed to permit the inspector to satisfactorily determine the safety of the boiler.

E. GR-5 Lap Seam Crack

The shell or drum of a boiler (in which a lap seam crack is discovered along a longitudinal riveted joint) shall be immediately discontinued from use. Patching is prohibited. (Lap seam crack refers to a crack found in lap seams extending parallel to the longitudinal joint, and located either between or adjacent to rivet holes.)

F. GR-6 Pressure Test

1. A pressure test, when applied to boilers, need not exceed the maximum allowable working pressure or the setting of the lowest set safety valves. The pressure shall be under proper control so that in no case shall the required test pressure be exceeded. During a pressure test the safety valve or valves shall be removed or each valve disk shall be held to its seat by means of a testing clamp and not by screwing down the compression screw upon the spring. A plug device designed for this purpose may be used.

2. It is suggested that the minimum metal temperatures during a pressure test shall be not less than 70°F, and that the maximum metal temperature during inspection shall not exceed 120°F.

3. When a pressure test is applied to determine tightness, the pressure shall be equal to the normal operating pressure but need not exceed the release pressure of the safety valve having the lowest release setting.

4. When the contents of the vessel prohibit contamination by any other medium or when a water pressure test is not possible, other testing media may be used providing the precautionary requirements of the applicable section of the ASME Code are followed. In such cases, there shall be agreement between the owner and the inspector.

G. GR-7 Automatic Low-Water Fuel Cutoff and/or Water Feeding Device

1. Each automatically fired steam or vapor system boiler shall be equipped with an automatic low-water fuel cutoff so located as to automatically cut off the fuel supply when the surface of the water falls to the lowest safe waterline. If a water-feeding device is installed, it shall be so constructed that the water inlet valve cannot feed water into the boiler through the float chamber and so located as to supply requisite feed water. The lowest safe waterline should not be lower than the lowest visible part of the water glass.

2. Hot water heating boilers shall be equipped with a Low Water Fuel Cutoff with a manual reset function.

3. Such fuel or feed water control devices may be attached directly to a boiler or for low pressure boilers, to the tapped openings provided for attaching a water glass directly to a boiler, provided that such connections from the boiler are nonferrous tees or Ys not less than 1/2 in. pipe size between the boiler and the water glass, so that the water glass is attached directly and as close as possible to the boiler; the straightway tapping of the Y or tee to take the water glass fittings, the side outlet of the Y or tee to take the fuel cutoff or water-feeding device. The ends of all nipples shall be reamed to full size diameter.

4. Designs embodying a float and float bowl shall have a vertical straightaway valve drain pipe at the lowest point in the water equalizing pipe connections by which the bowl and the equalizing pipe can be flushed and the device tested.

H. GR-8 Pressure Reducing Valves

1. Where pressure-reducing valves are used, one or more safety or safety relief valves shall be provided on the low-pressure side of the reducing valve when the piping or equipment on the low-pressure side does not meet the requirements for the full initial pressure. The safety or safety relief valves shall be located adjoining or as close as possible to the reducing valve. Proper protection shall be provided to prevent injury or damage caused by the escaping fluid from the discharge of safety or safety relief valves if vented to the atmosphere. The combined discharge capacity of the safety or safety relief valves shall be such that the pressure rating of the lower pressure piping or equipment shall not be exceeded in case the reducing valve fails in the open position.

2. The use of hand-controlled bypasses around reducing valves is permissible. If a bypass is used around the reduction valve, the safety valve required on the low pressure side shall be of sufficient capacity to relieve all the fluid that can pass through the bypass without over-pressuring the low-pressure side.

3. A pressure gauge shall be installed on the low-pressure side of a reducing valve.

I. GR-9 Boiler Blow Off Equipment

1. The blow down from a boiler or boilers that enters a sanitary sewer system or blow down, which is considered a hazard to life or property, shall pass through some form of blow off equipment that will reduce pressure and temperature as required hereinafter.

2. The temperature of the water leaving the blow off equipment shall not exceed 140°F.

3. The pressure of the blow down leaving any type of blow off equipment shall not exceed 5 psig.

4. All blow off equipment shall be fitted with openings to facilitate cleaning and inspection.

5. Blow off equipment shall conform to the provisions set forth in the recommended rules for Sizing Blow Off Vessels, 2004 Edition.

J. GR-10 Location of Discharge Piping Outlets

The discharge of safety valves, blow off pipes, and other outlets shall be located and supported as to prevent injury to personnel.

K. GR-11 Supports

Each boiler shall be supported by masonry or structural supports of sufficient strength and rigidity to safely support the boiler and its contents. There shall be no excessive vibration in either the boiler or its connecting piping.

L. GR-12 Boiler Door Latches

1. A water tube boiler shall have the firing doors of the inward opening type, unless such doors are provided with substantial and effective latching or fastening devices or otherwise so constructed as to prevent them, when closed, from being blown open by pressure on the furnace side.

2. These latches or fastenings shall be of the positive self-locking type. Friction contacts, latches, or bolts actuated by springs shall not be used. The foregoing requirements for latches or fastenings shall not apply to coal openings of downdraft or similar furnaces.

3. All other doors, except explosion doors, not used in the firing of the boiler, may be provided with bolts or fastenings in lieu of self-locking latching devices.

4. Explosion doors, if used and if located in the setting walls within 7 ft. of the firing floor or operating platform, shall be provided with substantial deflectors to divert the blast.

M. GR-13 Clearance

When boilers are replaced or new boilers are installed in either existing or new buildings, a minimum height of at least 3 ft. shall be provided between the top of the boiler proper and the ceiling, and at least 3 ft. between all sides of the boiler and adjacent walls or other structures. Boilers and pressure vessels having manholes shall have 5 ft. clearance from the manhole opening and any wall, ceiling or piping that will prevent a person from entering the boiler or vessel. All boilers shall be so located that adequate space will be provided for the proper operation of the boilers and their appurtenances, for the inspection of all surfaces, tubes, water walls, economizers, piping, valves and other equipment, and for their necessary maintenance and repair and replacement of tubes.

N. GR-14 Ladders and Runways

When necessary for safety, there shall be a steel runway or platform of standard construction installed across the tops of adjacent boilers or at some other convenient level for the purpose of affording safe access. All walkways shall have at least two means of exit, each to be remotely located from the other.

O. GR-15 Exit from Boiler Room

All boiler rooms exceeding a 500 sq. ft. floor area and containing one or more boilers having a fuel-burning capacity of 1,000,000 BTU, or equivalent electrical heat input, shall have at least two means of exit. Each exit shall be remotely located from the other. Each elevation in such boiler room shall have two means of exit, each remotely located from the other.

P. GR-16 Suggestions for Operations

It is suggested that the Recommended Rules for Care of Power Boilers, Section VII, and the Recommended Rules for Care and Operation of Heating Boilers, Section VI, of the ASME Code be used as a guide for proper and safe operating practices.

Q. GR-17 Air and Ventilation Requirements – Combustion Air Supply and Ventilation of Boiler Room

A permanent source of outside air shall be provided for each boiler room to permit satisfactory combustion of the fuel as well as proper ventilation of the boiler room under normal operating conditions.

1. The total requirements of all burners for all fired pressure vessels and air compressors or other air-consuming equipment in the boiler room must be used to determine the net louvered area in square feet:

INPUT BTU/HOUR	REQUIRED AIR CU/FT/MIN.	MIN. NET LOUVERED AREA, SQ. FT.
500,000	125	1.0
1,000,000	250	1.0
2,000,000	500	1.6
3,000,000	750	2.5
4,000,000	1,000	3.3
5,000,000	1,250	4.1
6,000,000	1,500	5.0
7,000,000	1,750	5.8

8,000,000	2,000	6.6
9,000,000	2,250	7.5
10,000,000	2,500	8.3

2. When mechanical ventilation is in lieu of paragraph (A), the supply of combustion and ventilation air to the boiler room and the firing device will not operate with the fan off. The velocity of the air through the ventilating fan shall not exceed 500 feet per minute and the total air delivered shall be equal to or greater than shown in paragraph (1) above.

R. GR-18 Gas Burners
For installations, which are gas fired, the burners used shall conform to the applicable requirements of nationally recognized standards.

S. GR-19 Conditions Not Covered by These Rules and Regulations
For any conditions not covered by these requirements, the applicable provisions of the ASME Code, the National Board Inspection Code, or the American Petroleum Institute Pressure Vessel Inspection Code shall apply.

Fiscal Impact Statement:

There will be no additional cost incurred by the State or any political subdivision.

Statement of Rationale:

The guidelines for boilers are added to conform with national guidelines in order to assure public safety.

Document No. 3064
SOUTH CAROLINA LAW ENFORCEMENT DIVISION
CHAPTER 73
Statutory Authority: 1976 Code Section 40-18-30

Synopsis:

The South Carolina Law Enforcement Division is requesting the deletion of current regulations regarding private security and private investigation businesses and replacement with the proposed regulations to conform the regulatory language to statutory law (Chapter 18, Title 40, South Carolina Code). The proposed regulations will correct language, provide clarification, and create requirements as noted in the text.

Instructions:

Delete Regulation 73-40(1)-(36) and replace with the proposed regulations (73-400 through 73-422).

Text:

Chapter 73
Private Security and Private Investigation Businesses
Article 4

73-400. Definitions.
1. *Business license* means a license from SLED to operate a private investigation or private security business or entity, to solicit such business, perform or employ others to perform the activities specific to that business and to charge fees for performance of such activities.

2. *Registration* means the registration with SLED of a person to be employee by the licensed business to perform the specific activities of the business. Registration does not authorize the operation of a business.

3. *Principal* means the chief executive or other person employed and authorized to exercise day-to-day operational direction and control of the practices and employees of the entity.

4. *Licensee* means a person who holds a valid license to conduct a business authorized in Chapter 18, Title 40, South Carolina Code of Laws.

5. *Employee* means a person paid by a licensee to perform duties assigned by the licensee and under the supervision, direction and control of the licensee.

6. *Manager* means an employee, other than line supervisor, assigned general day-to-day operational management responsibilities to direct the affairs and employees of the employing entity.

7. *Qualifying experience* means experience as an employee in one or more of the following circumstances:

A. For a license to operate a private security entity: a minimum of two years of full time employment as a sworn police officer by a public law enforcement agency or as a manager of a licensed private security entity or other security program as approved by SLED.

B. For a license to operate a private investigation business: a minimum of three years of full time employment as a sworn police officer employed by a public law enforcement agency in an investigative capacity or an equivalent amount of experience, as determined by SLED, while a registered employee of licensed private investigation businesses. In its discretion, SLED may approve an equivalent period of other occupational experience that demonstrates the use of knowledge, skills, abilities, practices and techniques constructively similar to those necessary to provide, in the opinion of SLED, competent investigative services to the public.

C. For applicants for licenses to operate private investigation businesses, SLED will grant credit toward required experience, in the following amounts, to an applicant who has earned a certificate or degree from an educational institution accredited by a nationally recognized accreditation authority recognized by SLED:

Certificate for study of private investigations .... 6 months
Associates Degree .... 6 months
Bachelor's Degree .... 1 year
Graduate Degree.. 1.5 years

D. The applicant must supply information required by SLED to document employment experience.

8. *Firearm* means a handgun unless specific approval is provided in writing by SLED for use of other types of firearms at specific sites.

73-401. Eligibility for business license; principal; private security; private investigations.

A business license must be issued only to a principal of the applicant business.

73-402. Principal; disclosure of identity; private security; private investigations.

The identity of each principal of an applicant or licensed entity must be fully disclosed as part of each new and renewal application on forms furnished by SLED.

73-403. Principal and employees; character; private security; private investigations.

Principals of applicant and licensed entities must be of suitable character and background, as defined in Chapter 18, Title 40, South Carolina Code, except for experience requirements. Failure of a principal to meet and maintain such suitability constitutes cause for suspension or revocation of the business license and registration of the principal or employee.

73-404. Licensee and business names; requirements; private security; private investigations.

All applications for licenses applied for pursuant to South Carolina Code Chapter 18, Title 40 must bear the same individuals' and business name(s) as the name(s) on any other license(s) or permit(s) issued to the same individual(s) or business by any authority.

73-405. Termination or death of licensee; private security; private investigations.

1. Upon termination of a licensee, a representative of the entity must immediately notify SLED. The entity will be immediately designated by SLED as *conditionally licensed*.

2. The chief executive or other principal of the entity must, within five calendar days of the date of termination of the licensee, submit an application for licensing of a new principal and the appropriate application fee.
3. The entity may operate as conditionally licensed for up to twenty calendar days after receipt of the new application by SLED.
4. In the event of the death of a licensee of a licensed business, a representative of the business must immediately notify SLED. The business will be designated by SLED as *conditionally licensed* and may continue operations.
5. The personal representative of the estate of the deceased licensee must furnish to SLED a notice of appointment by the probate court and may continue the operation of the business in accordance with directions of the court.
6. During the period of operation, licenses for such businesses must be renewed upon expiration using the standard license renewal procedure, including payment of license fees.
7. Authority of the personal representative to operate the licensed business without securing a new license will expire with the entry of an order by the court approving settlement, closure or distribution of the estate and discharging the personal representative, or an order terminating the personal representative or the proceeding.
8. An applicant for a license to continue operation of the business must meet all relevant qualifications to hold the license or SLED must deny the application.
9. Failure to comply renders the business license invalid and constitutes cause for revocation of the license.

73-406. Business and trade names; private security; private investigations.
1. Business and trade names used by licensed entities must be approved by SLED.
2. Materials, equipment, supplies and advertising used in connection with the entity may not imply affiliation with a law enforcement or other government agency.
3. The words “police”, “enforcement”, “bureau”, or “public safety” may not be used in connection with a licensed entity.
4. The word “investigation(s)” may not be used in connection with a business unless the entity is licensed as a private investigation business.
5. The words “security” or “protection” may not be used in connection with a business unless the entity is licensed as a private security entity.
6. Unless otherwise approved by SLED, licensed entities are prohibited from using or advertising any business name other than the name shown on the license issued by SLED.
7. All paid advertisement to the general public by a licensed company must include the SLED license number issued to the licensee. Business cards are exempt from this requirement.
8. Names and materials existing and/or approved by SLED before the effective date of this regulation are exempt from these restrictions for the life of the license, if renewed as required by law.

73-407. Registration cards; private security; private investigations.
1. Private security and private investigation employee registration cards must display a recent and recognizable facial photograph of the registered individual, must be fully laminated and must legibly display all information placed on the card by SLED.
2. Registration cards that are altered or otherwise not in compliance with these requirements are invalid.
3. Registration cards issued to a private investigator authorize the performance of private investigation activities only while the registered individual is an employee of a licensed private investigation business and is performing activities assigned by his employer.

73-408. License and registration period; renewal; private security; private investigations.
1. Licenses and registrations issued by SLED are valid for one year from date of issue.
2. Failure to file a timely application for renewal renders the license or registration card invalid and, unless otherwise authorized by SLED, the holder is no longer licensed, registered or authorized to conduct the licensed or registered activity.

3. Application for renewal of licenses and registrations must be received by SLED at least thirty days, but not more than sixty days, prior to the date of expiration.

4. Required fees must be received with the application form and must be in the form of a valid business check, cashier check or money order.

5. Payment with a check that is dishonored by a financial institution will prevent issuance of a license or registration or result in its immediate suspension. The following fees are applicable and are non-refundable:

A. Private Security Contract/Proprietary Business:	$350.00 annually
B. Private Security Officer Registration:	
1. armed:	$110.00 annually
2. unarmed:	$65.00 annually
3. replacement-lost or destroyed card:	$20.00
C. Private Investigation Business	$350.00 annually
D. Private Investigation	
1. employee registration:	$350.00 annually
2. replacement-lost or destroyed card:	$20.00

73-409. Law enforcement officers; private security; private investigations.

1. Except as permitted herein, persons holding commissions or appointments that confer law enforcement authority and administrative employees of public law enforcement agencies may not hold private security or private investigation licenses or registrations.

2. Officers of the South Carolina Department of Corrections who hold limited-authority law enforcement commissions, as defined by the South Carolina Criminal Justice Academy, are exempt from this restriction for purposes of employment as private security officers.

73-410. Surety bond cancellation; private security; private investigations.

1. Cancellation of a required surety bond will result in an immediate designation of *conditionally licensed* for the business.

2. The licensee must, within ten (10) days of notification of termination of bond, submit to SLED a new certificate of bond.

3. Failure to comply will render the company license invalid and the company must immediately cease the activities for which it is licensed.

73-411. Display of blue lights on private security vehicles.

1. Display of blue lights on security vehicles is prohibited unless authorized in writing by SLED pursuant to the following procedure:

A. The owner or designee of the owner of the property being patrolled must comply with the provisions of Article 45, Chapter 5, Title 56, South Carolina Code of Laws, concerning regulation of traffic on private roads.

B. The owner or designee of the owner of the property being patrolled must submit to SLED documentation of such compliance and a written request to display and use blue lights on the security vehicles to be used on the property.

C. The licensee of the private security business must have written approval from SLED before use of blue lights on the security vehicles to be used on the property.

2. Blue lights approved for use on private security vehicles may be displayed only on vehicles properly marked in accordance with R. 73-412 and on the property specifically described in the application for use of blue lights and otherwise must be removed from the vehicle or covered so as to be protected from public view.

3. Display of blue lights on private security company or other vehicles used by a private security officer, other than as approved by SLED, is prohibited.

73-412. Private security vehicle markings.

1. Unless otherwise approved in writing by SLED, vehicles used by private security officers for patrol and enforcement activities must be clearly marked with the word “security” and must display the name or symbol identifying the security company.

2. In its discretion, SLED may approve exemptions from this requirement upon written request submitted to SLED by a contract private security company principal and a representative of the client company citing specific special circumstances or by an official of the company holding a proprietary private security license.

73-413. State Uniform Traffic Summons tickets; private security.

1. Private security officers may not possess or issue State Uniform Traffic Summons tickets except as approved by SLED and the South Carolina Department of Public Safety. No such approval will attend unless the owner or designee of the owner of the private property involved is in compliance with the following procedure:

A. The owner or designee of the owner of the property being patrolled must be in compliance with the provisions of Article 45, Chapter 5, Title 56, South Carolina Code of Laws, concerning regulation of traffic on private roads;

B. The owner or designee of the owner of the property being patrolled must submit to SLED documentation of compliance with all requirements of law concerning enforcement of State traffic laws on private roads and must have written approval of SLED and the South Carolina Department of Public Safety to possess and issue State Uniform Traffic Summons tickets on the private property.

C. The licensee of the private security business must have written approval from SLED for use of blue lights on security company vehicles on the property.

2. State Uniform Traffic Summons tickets used pursuant to this authority may not be issued for any offense if such issuance is not in compliance with provisions of South Carolina Code Section 56-5-6310, South Carolina Code Section 56-7-10, and South Carolina Code Section 56-7-15.

3. Private security officers authorized by their employing entity to issue State Uniform Traffic Summons tickets must receive training by their employer sufficient to ensure proper knowledge of the lawful use of such tickets.

73-414. Private tickets; private security.

1. Private security officers must not issue written instruments initiating any punitive action except to those persons described herein:

A. a person who is a signatory to a written acknowledgement of the rules and potential penalties related to the cited behavior;

B. an employee of a company whose representative is a signatory to such acknowledgement;

C. a visitor to the property who has been given constructive notice of such rules and penalties.

2. Signed written acknowledgements required by this regulation must be maintained on the property and available for inspection by SLED.

3. Constructive notice may be established by furnishing written materials to property owners and others entering the property or by posting signage identifying behavior subject to citation and potential penalties for violation.

73-415. Arrest reporting; private security.

Arrests made by private security officers must be reported to the law enforcement agency of primary jurisdiction immediately after the suspect and the scene of the incident are secured.

73-416. Transportation of prisoners; off-property authority; private security.

Private security officers exercising law enforcement authority of South Carolina Code Chapter 18, Title 40 must not transport prisoners or pursue suspects off the protected property.

73-417. Cooperation with law enforcement agencies and officers; private security.

Private security officers must fully cooperate in the prosecution and disposition of cases resulting from activities of the security officer, including but not limited to the furnishing of statements, provision of evidence, bail or bond hearings and court appearances. Private security
officers are prohibited from hindering, obstructing or failing to cooperate with an investigation or other official law enforcement matter.

73-418. Discovered criminal activity; private security.

1. Private security officers are required to immediately secure the scene of a discovered crime on protected property, to immediately notify the law enforcement agency of jurisdiction, and to report suspected criminal activity on the protected property to the primary law enforcement agency of jurisdiction as soon as reasonably possible.

2. Private security officers must receive training by their employer sufficient to ensure adequate knowledge to properly and competently secure and preserve a crime scene.

73-419 Training; private security company certified training officers.

1. Each licensed private security business must employ or retain by other arrangement a SLED-certified private security training officer.

2. The training officer must have successfully completed a course of training specified by SLED or be otherwise approved by SLED.

3. Training officers must accurately certify to SLED, in the manner required, the results of training.

4. To maintain certification, training officers must successfully complete periodic training as required by SLED.

73-420. Training; private security officers.

1. Each candidate for registration as a private security officer must qualify by successfully completing a basic training course approved by SLED.

2. The standard basic training course consists of four or more hours of training by a certified private security company training officer and must consist of the latest material provided to the trainer by the South Carolina Technical College Private Security Training School. Such basic training must be completed, a written examination administered and scored, accurate results of the testing documented in the employer's files, and application for registration received by SLED before the security officer begins duties at a client site. The required written examination must be designed by the company certified training officer and must consist of questions taken from the lesson plan performance objectives used by the trainer.

A. A candidate who successfully completes such basic training will, upon issuance of a registration card by SLED, be designated as a *Registered Private Security Officer*.

3. An alternative basic training course approved by SLED may be substituted for standard basic training. For consideration of approval by SLED, an alternative training course must be developed and conducted by an agency or educational institution accredited by a nationally recognized accreditation authority recognized by SLED.

A. A candidate who successfully completes such alternative basic training will, upon employment by a licensed private security entity, qualify for registration by SLED as a *Certified Private Security Officer*.

B. The security officer must complete an additional minimum two hours of orientation and training by a certified company training officer. The training must be sufficient to ensure:

1. the safe, accurate and proper use of equipment to be used by the security officer,

2. knowledge adequate to properly and competently perform the duties and responsibilities specific to the assignment of the officer, and

3. additional topics specified by the employer.

3. In addition to the training required herein, a private security officer who will be authorized to carry a firearm must, before being issued, authorized or permitted to carry a firearm on duty, successfully complete a course approved by SLED, consisting of a minimum of four hours of training by a private security company certified training officer or law enforcement firearms instructor currently certified by the South Carolina Criminal Justice Academy, in the safe and proper use of the specific type(s) of firearm(s) to be issued or carried. Such training must:

A. adhere to the lesson plan(s) and course(s) of fire provided by the South Carolina Technical College Private Security Training School, and

B. include a demonstration of the safe and competent use of the firearm on a range supervised and documented by a private security company certified training officer or law enforcement firearms instructor currently certified by the South Carolina Criminal Justice Academy.

4. Unless otherwise specifically approved in writing by SLED at a specific site, private security officers are prohibited from possessing or using rifles or shotguns in connection with private security activities.

5. Accurate and complete documentation of all training of each private security officer must be retained by the employer and submitted to SLED as required. Complete and legible copies of each employee's training records must be furnished by the employer to the employee and must be retained by the employee as his permanent training record. Upon request by SLED, training documentation must be made available by the employing entity and the employee for inspection.

6. Upon change of employer, a registered private security officer must furnish to the new employer documentation of all training received. If such documentation is not available and cannot be secured from the immediate past employer, the new employer is required to conduct and document currently required minimum training.

7. Mere possession of a registration card does not serve as documentation of required training.

8. Failure of an employer and registered security officer to retain required training records is a violation punishable by suspension or revocation of the company license and the security officer's registration.

73-421 Training; private security officers; use of equipment or devices.

Private security officers must not be issued or use equipment or devices for which they have not successfully completed training adequate to ensure the proper, accurate and safe use of such equipment. Documentation of such training must be maintained by the licensee and be available for inspection by SLED.

73-422. Training; private investigators; continuing education requirements.

1. SLED will establish and maintain a SLED Private Investigations Advisory Committee comprised of members appointed by SLED for advice concerning continuing education standards and policy. Such membership may be rotated as deemed necessary by SLED.

2. Licensed and registered private investigators must complete and report continuing education training as required by SLED.

3. SLED must develop and publish written rules governing continuing education program policy, procedures and content.

4. In its discretion, SLED may approve for credits programs it identifies as providing information directly related to the development or enhancement of investigative skills or as otherwise directly applicable to the operation of a private investigation business.

5. SLED must maintain and publish to licensed and registered practitioners a list of approved training providers and programs.

6. Licensees are responsible for remaining in compliance and ensuring compliance with these requirements by registered employees.

Fiscal Impact Statement:

There will be no additional cost incurred by the State or its political subdivisions.

Statement of Rationale:

The proposed changes to Chapter 73 are sought because some provisions of R. 73-40 were adopted, in substance, into statutory law (Chapter 18, Title 40, South Carolina Code) by the General Assembly in 2000. Other provisions of R. 73-40 became conflictive with provisions of statutory law and must be replaced. The proposed regulation will correct language, provide clarification, and create requirements as noted in the text.

Document No. 3043
COMMISSION FOR MINORITY AFFAIRS
CHAPTER 139
Statutory Authority: S.C. Code Section 1-31-40(A)(10)

Article I

139-103. Notification of Recognition Status.
139-104. Limitations.
139-105. Criteria for State Recognition.
139-107. Membership Requirements for the Native American Advisory Committee.
139-108. Membership, Terms and Voting Power of State Recognition Committee.
139-109. Duties of the State Recognition Committee.

Synopsis:

139-103. Notification of Recognition Status

139-103. The proposed amendments will change description of section, add language regarding the appeal process, and provide timeframe for withdrawal.

Section-by-Section

139.103. Notification of Recognition Status, Appeals and Withdrawals.
Title change to section denoting addition of content to section.

139-103(A). Identify old text as new Section A referencing how Board will formally acknowledge State recognized entities.

A. Formal acknowledgement of the decision of the Board of the Commission regarding the status of an application for State Recognition shall be in writing, and may be further acknowledged in other forms (certificate, plaque, and/or culturally appropriate ceremony) as determined appropriate by the Commission.

139-103(B). Add new Section B which outlines the appeals process which was not originally included in regulation language.

B. Whenever an entity receives an unfavorable recommendation from the State Recognition Committee, the entity will be notified by mail within five business days from the date of notification to the Board of the Commission. This notification will include the reason the unfavorable recommendation was given. The entity shall have ten business days from receipt of the notification letter to submit an appeal asking for reversal of that decision. The appeal must state clearly the reasons that the entity believes that the decision should be reversed. The Commission for Minority Affairs must receive the appeal in writing. Entities are barred from submitting new information, updated information, additional exhibits, charts, and/or any additional documentation that was not part of the original petition and considered by members of the State Recognition committee.

139-103(C). Add new Section C which states when an entity may withdraw its documents from consideration to prevent having to wait more than a year to reapply.

C. An entity may withdraw its request for State Recognition at any point during the initial review process by the State Recognition Committee. After the State Recognition Committee makes its initial recommendations to the Board of the Commission, an entity may not withdraw its request.

139-104. Limitations.

139-104(F). The proposed amendment will add Section F to address splintering among State recognized and non-recognized entities. The amendment also will address entities that attempt to be recognized when a "Tribe" of their ancestry is already recognized.

Section by Section

139-104.(F). New text is being added to prevent entities from seeking State recognition after having separated or divided into numerous entities of the same Indian Nation or people. The new language will limit who can seek recognition and place a cut-off date in the regulations regarding any future request for State recognition as a "Tribe".

F. Splinter groups, political factions, communities or groups that separate from the main body of a currently State acknowledged tribe or who claim the same ancestors, history, genealogy, institutions, establishments, or other primary characteristics of a currently recognized tribe, may not be acknowledged under these regulations. However, entities that can establish clearly and on a substantially continuous basis that they have functioned throughout the past one hundred years until the present as an autonomous tribal entity may be acknowledged under this part, even though they have been regarded by some as part of or as having been associated in some manner with an acknowledged South Carolina Indian Tribe. No entities formed after January 1, 2006 shall be granted State recognition as a "Tribe".

139-105. Criteria for State Recognition.

139.105. Three proposed amendments are submitted for this section. (1) The proposed amendment will add language requiring evidence of existence and tribal rolls for at least five years to be considered for the status of "Tribe". (2) The proposed amendment will place an 18 year old age requirement on the one hundred descendants. (3) The proposed amendment will require documented traditions, customs and legends specific to the heritage of the Native population identified.

Section by Section.

139-105.(A)(1) New language is being added which prevents splinter entities created within the past five years from seeking State Recognition as a "Tribe".

(1) The tribe is headquartered in the State of South Carolina and indigenous to this State. The tribe must produce evidence of tribal organization and/or government and tribal rolls for a minimum of five years.

139-105. (A)(8) New language is added that prevents families with large numbers of children from splintering off and starting a new entity and later seeking tribal status.

(8) A minimum of one hundred living descendents who are eighteen years of age or older, whose Indian lineage can be documented by a lineal genealogy chart, and whose names, and current addresses appear on the Tribal Roll.

139-105. (A)(9) Text adds one word "specific" to make clear that each entity seeking tribal status must identify traditions, customs and legends unique to their nation of people, not generic to any group of Indians.

(9) Documented traditions, customs, legends, etc., that signify the specific group's Indian heritage.

139-107. Membership Requirements for Native American Advisory Committee.

139-107. The proposed change will expand the representation of the Native American Indian Advisory Committee.

Section by Section.

139-107. (C)(5) New text is being added to expand the representation of the Native American Advisory Committee to include other State agencies that have an interest in working with this population to accomplish their missions.

(C) Additionally, representatives from the following organizations shall serve as non-voting advisors to members of the Native American Indian Advisory Committee:

(5) Representatives from South Carolina state agencies having a vested interest in Native American affairs.

139-108. Membership, Terms and Voting Power of State Recognition Committee.

139-108. The proposed change deletes text so as to insure that there are at least three people on the State Recognition Committee that are not affiliated with South Carolina Native American entities.

Section by Section.

139-108.(A)(4) The proposed deletion removes the old (4) only. This is being done to remove the possibility of a South Carolina Native American filling this seat, thus insuring that there would be at least three people sitting on the committee that are not affiliated with native entities in South Carolina. This is being recommended to insure added fairness in the State Recognition process.

(A) The State Recognition Committee shall consist of five members:

(4) One representative from a South Carolina Native American Indian entity or a notable Native American leader of scholar from across the United States.

139-108.(A)(4) New language (4) is added to insure that the fifth seat on the State Recognition Committee will be filled by a person who has no vested interest in the outcome of the decision being made.

(A) The State Recognition Committee shall consist of five members:

(4) One notable Native American leader or scholar from across the United States, excluding South Carolina.

Section by Section.

139-108.(F)(1)(2) A new Section F is added to specify who will fill the fifth seat on the State Recognition Committee.

(F) Thereafter, the four members of the State Recognition Committee shall select one person from among the following categories:

(1) Federally recognized "Tribe".
(2) Notable Native American leader or scholar from across the United States, excluding South Carolina.

Section by Section.

The proposed change reorders the old section (F) (G) and (H) to (G) (H) (I) as the result of adding a new Section F.

139-108.(F) Old language changed to 139-108(G).

(G) The establishment of the first three-member Interim State Recognition Committee shall be at the discretion of the Executive Director of the Commission for Minority Affairs. Thereafter, elections shall be held in April every other year, prior to the end of the two-year term for seating of State Recognition Committee members.

139-108.(G) Old language changed to 139-108(H).

(H) An entity applying for State Recognition must receive a majority vote or three affirmative votes out of five to be recommended for State Recognition. The absence of a member or failure of a committee member to vote will be counted as an "Abstention" vote. No member may cast a vote for another member.

139-108.(H) Old language changed to 139-108(I).

(I) In the event that a member is no longer able to serve due to death, illness, or other personal reasons, a written letter of resignation from the governing body of the entity represented should be sent to the Executive Director of the Commission for Minority Affairs. Upon receiving the letter of resignation, the Executive Director shall move forward to fill the vacancy and the remaining unexpired term in accordance with the guidelines set forth herein. If a member fails to participate after having been appointed to the State Recognition Committee, the Executive Director shall make the Chairperson of the Board of the Commission for Minority Affairs aware of the impact upon the State Recognition process, and the Board may vote to declare the seat vacant. If such occurs, a new appointment may be made in accordance with the manner in which the seat was filled, and in accordance with the guidelines set forth herein.

139-109. Duties of the State Recognition Committee.

139-109.(B) The amendment to the Section allows the State Recognition Committee to seek clarification and additional information it deems necessary to make a decision.

Section by Section.

139-109.(B) Additional text is being added allowing the State Recognition Committee to seek clarification in writing or in person, and limits additional information by request only of the State Recognition Committee.

(B) The State Recognition Committee shall review all information submitted in accordance with R. 139-102 (D)(E)(F) and R. 139-105 (A)(B)(C), and request such information as it deems appropriate and necessary to make a recommendation to the Board of the Commission. The State Recognition Committee may seek clarification through written correspondence or by meeting with an entity as it deems appropriate. The State Recognition Committee will not accept unsolicited additional documentation.

139-109.(F) The revision to the Section limits the time to reapply to one year after being denied State Recognition and allows entities to apply for a different status immediately.

Section by Section.

139-109.(F) The Section is reworded to limit resubmission for the same status to one year and to provide opportunity to apply for a different status immediately after having failed to achieve State Recognition.

(F) Entities who fail to achieve State Recognition shall not be eligible to reapply for the same status for one year from there original date of submission, that being April 1 or September 1 and in accordance with R. 139-109(C)

Instructions:

139-103. Change Section Title to Notification of Recognition Status, Appeals and Withdrawals.

139-103.(A) Identify old text as new Section A.

(A). Formal acknowledgement of the decision of the Board of the Commission regarding the status of an application for State Recognition shall be in writing, and may be further acknowledged in other forms (certificate, plaque, and/or culturally appropriate ceremony) as determined appropriate by the Commission.

139-103.(B) Add new Section B.

B. Whenever an entity receives an unfavorable recommendation from the State Recognition Committee, the entity will be notified by mail within five business days from the date of notification to the Board of the Commission. This notification will include the reason the unfavorable recommendation was given. The entity shall have ten business days from receipt of the notification letter to submit an appeal asking for reversal of that decision. The appeal must state clearly the reasons that the entity believes that the decision should be reversed. The Commission for Minority Affairs must receive the appeal in writing. Entities are barred from submitting new information, updated information, additional exhibits, charts, and/or any additional documentation that was not part of the original petition and considered by members of the State Recognition committee.

139-103.(C) Add new Section C.

C. An entity may withdraw its request for State Recognition at any point during the initial review process by the State Recognition Committee. After the State Recognition Committee makes its initial recommendations to the Board of the Commission, an entity may not withdraw its request.

139-104(F) Add new Section F.

F. Splinter groups, political factions, communities or groups that separate from the main body of a currently State acknowledged tribe or who claim the same ancestors, history, genealogy, institutions, establishments, or other primary characteristics of a currently recognized tribe, may not be acknowledged under these regulations. However, entities that can establish clearly and on a substantially continuous basis that they have functioned throughout the past one hundred years until the present as an autonomous tribal entity may be acknowledged under this part, even though they have been regarded by some as part of or as having been associated in some manner with an acknowledged South Carolina Indian Tribe. No entities formed after January 1, 2006 shall be granted State recognition as a “Tribe”.

139-105.(A)(1) Add new language.

(1) The tribe is headquartered in the State of South Carolina and indigenous to this State. The tribe must produce evidence of tribal organization and/or government and tribal rolls for a minimum of five years.

139-105.(A)(8) Add new language.

(8) A minimum of one hundred living descendents who are eighteen years of age or older, whose Indian lineage can be documented by a lineal genealogy chart, and whose names, and current addresses appear on the Tribal Roll.

139-105.(A)(9) Add new language.

(9) Documented traditions, customs, legends, etc., that signify the specific group's Indian heritage.

139-107.(C)(5) Add new language.

(5) Representatives from South Carolina state agencies having a vested interest in Native American affairs.

139-108.(A)(4) Add new language.

(4) One notable Native American leader or scholar from across the United States, excluding South Carolina.

139-108.(F)(1)(2) Add new Section F.

(F) Thereafter, the four members of the State Recognition Committee shall select one person from among the following categories:

(1) Federally recognized “Tribe”.
(2) Notable Native American leader or scholar from across the United States, excluding South Carolina.

139-108.(F) Old language changed to 139-108(G).

(G) The establishment of the first three-member Interim State Recognition Committee shall be at the discretion of the Executive Director of the Commission for Minority Affairs. Thereafter, elections shall be held in April every other year, prior to the end of the two-year term for seating of State Recognition Committee members.

139-108.(G) Old language changed to 139-108(H).

(H) An entity applying for State Recognition must receive a majority vote or three affirmative votes out of five to be recommended for State Recognition. The absence of a member or failure of a committee member to vote will be counted as an "Abstention" vote. No member may cast a vote for another member.

139-108.(H) Old language changed to 139-108(I).

(I) In the event that a member is no longer able to serve due to death, illness, or other personal reasons, a written letter of resignation from the governing body of the entity represented should be sent to the Executive Director of the Commission for Minority Affairs. Upon receiving the letter of resignation, the Executive Director shall move forward to fill the vacancy and the remaining unexpired term in accordance with the guidelines set forth herein. If a member fails to participate after having been appointed to the State Recognition Committee, the Executive Director shall make the Chairperson of the Board of the Commission for Minority Affairs aware of the impact upon the State Recognition process, and the Board may vote to declare the seat vacant. If such occurs, a new appointment may be made in accordance with the manner in which the seat was filled, and in accordance with the guidelines set forth herein.

139-109.(B) Add new language.

(B) The State Recognition Committee shall review all information submitted in accordance with R. 139-102 (D)(E)(F) and R. 139-105 (A)(B)(C), and request such information as it deems appropriate and necessary to make a recommendation to the Board of the Commission. The State Recognition Committee may seek clarification through written correspondence or by meeting with an entity as it deems appropriate. The State Recognition Committee will not accept unsolicited additional documentation.

139-109.(F) Amend wording.

(F) Entities who fail to achieve State Recognition shall not be eligible to reapply for the same status for one year from there original date of submission, that being April 1 or September 1 and in accordance with R. 139-109(C).

Text.

ARTICLE I

STATE RECOGNITION OF NATIVE AMERICAN INDIAN ENTITIES

(Statutory Authority: S.C. Code Section 1-31-40(A)(10))

139-100. Purpose.
139-101. Scope.
139-102. Definitions.
139-103 Notification of Recognition Status, Appeals and Withdrawals.
139-104 Limitations.
139-105. Criteria for State Recognition.
139-106. Purpose of the Native American Indian Advisory Committee.
139-107 Membership Requirements for the Native American Advisory Committee.
139-108 Membership, Terms and Voting Power of State Recognition Committee.
139-109 Duties of the State Recognition Committee.
139-110 Verification of Authenticity of Documents

139-100. Purpose.

Section 1-31-40(A)(10), South Carolina Code of Laws provides that "The Commission shall promulgate regulations as may be necessary regarding State Recognition of Native American Indian entities in the State of South Carolina."

139-101. Scope.

These rules and regulations shall be applicable to all entities seeking Native American Indian State Recognition as a:

A. Native American Indian Tribe.

B. Native American Indian Group.

C. Native American Special Interest Organization.

139-102. Definitions.

As used in this article, unless the context clearly requires otherwise:

A. “State” means the State of South Carolina.

B. “Commission” means the South Carolina Commission for Minority Affairs.

C. “Board” means a quorum or more of the oversight body of the Commission.

D. “Tribe” means an assembly of Indian people comprising numerous families, clans, or generations together with their descendents, who have a common character, interest, and behavior denoting a separate ethnic and cultural heritage, and who have existed as a separate community, on a substantially continuous basis throughout the past 100 years. In general, core members of the tribe are related to each other by blood. A tribal council and governmental authority unique to Native American Indians govern them.

E. “Group” means a number of individuals assembled together, which have different characteristics, interests and behaviors that do not denote a separate ethnic and cultural heritage today, as they once did. The group is composed of both Native American Indians and other ethnic races. They are not all related to one another by blood. A tribal council and governmental authority unique to Native American Indians govern them.

F. “Special Interest Organization” means an assembly of people who have united for the common purpose of promoting Native American culture and addressing socio-economic deprivation among people of Indian origin. The organization is made up of Native American Indians and other ethnic races. A tribal council or other form of governing body provides oversight and management. Membership is not required. They may be organized as a private nonprofit corporation under the laws of South Carolina.

G. “Official Record” means a record created, received, sanctioned by, or proceeding from an officer acting in an official capacity.

H. “Lineage” means direct descent from a particular ancestor or the descendents of a common ancestor considered the founder of the line.

139-103. Notification of Recognition Status, Appeals and Withdrawals.

A. Formal acknowledgement of the decision of the Board of the Commission regarding the status of an application for State Recognition shall be in writing, and may be further acknowledged in other forms (certificate, plaque, and/or culturally appropriate ceremony) as determined appropriate by the Commission.

B. Whenever an entity receives an unfavorable recommendation from the State Recognition Committee, the entity will be notified by mail within five business days from the date of notification to the Board of the Commission. This notification will include the reason the unfavorable recommendation was given. The entity shall have ten business days from receipt of the notification letter to submit an appeal asking for reversal of that decision. The appeal must state clearly the reasons that the entity believes that the decision should be reversed. The Commission for Minority Affairs must receive the appeal in writing. Entities are barred from submitting new information, updated information, additional exhibits, charts, and/or any additional documentation that was not part of the original petition and considered by members of the State Recognition Committee.

C. An entity may withdraw its request for State Recognition at any point during the initial review process by the State Recognition Committee. After the State Recognition Committee makes its initial recommendations to the Board of the Commission, an entity may not withdraw its request.

139-104. Limitations.

A. The Native American Indian entities recognized by this act, their members, lands, natural resources, or other property owned by such entities or their members, are subject to the civil, criminal, and regulatory jurisdiction and laws of the State of South Carolina, its agencies, and political subdivisions, and the civil and criminal

jurisdiction of the courts of the State of South Carolina, to the same extent as any other person, citizen or land in South Carolina.

B. Notwithstanding their state certification, Native American Indian entities have no power or authority to take any action that would establish, advance or promote any form of gambling in the State of South Carolina; nor does this provision of law confer power or authority to take any action which could establish, advance or promote any form of gambling in the State.

C. Nothing in this act recognizes, creates, extends, or forms the basis of any right or claim of interest in land or real estate in this State for any Native American Indian entity recognized by the State.

D. Federally recognized tribes retain all federally recognized sovereignty of rights under this provision of law.

E. State recognized tribes that subsequently obtain federal recognition are not bound by the limitations of this provision and therefore, gain and retain all federally recognized sovereignty of rights under this provision of law.

F. Splinter groups, political factions, communities or groups that separate from the main body of a currently State acknowledged tribe or who claim the same ancestors, history, genealogy, institutions, establishments, or other primary characteristics of a currently recognized tribe, may not be acknowledged under these regulations. However, entities that can establish clearly and on a substantially continuous basis that they have functioned throughout the past one hundred years until the present as an autonomous tribal entity may be acknowledged under this part, even though they have been regarded by some as part of or as having been associated in some manner with an acknowledged South Carolina Indian Tribe. No entities formed after January 1, 2006 shall be granted State recognition as a "Tribe".

139-105. Criteria for State Recognition.

A. Native American Indian Tribe - requirements 1 through 9 must be satisfactorily met to achieve State Recognition. Requirements 10 and 11 are optional.

(1) The tribe is headquartered in the State of South Carolina and indigenous to this State. The tribe must produce evidence of tribal organization and/or government and tribal rolls for a minimum of five years.
(2) Historical presence in the State for past 100 years and entity meets all of the characteristics of a "tribe" as defined in R. 139-102 (D)
(3) Organized for the purpose of preserving, documenting and promoting the Native American Indian culture and history, and have such reflected in its by-laws.
(4) Exist to meet one or more of the following needs of Native American Indian people - spiritual, social, economic, or cultural needs through a continuous series of educational programs and activities that preserve, document, and promote the Native American Indian culture and history.
(5) Claims must be supported by official records such as birth certificates, church records, school records, U.S. Bureau of the Census records, and other pertinent documents.
(6) Documented kinship relationships with other Indian tribes in and outside the State.
(7) Anthropological or historical accounts tied to the group's Indian ancestry.
(8) A minimum of one hundred living descendents who are eighteen years of age or older, whose Indian lineage can be documented by a lineal genealogy chart, and whose names, and current addresses appear on the Tribal Roll.
(9) Documented traditions, customs, legends, etc., that signify the specific group's Indian heritage.

(10) Letters, statements, and documents from state or federal authorities, that document a history of tribal related business and activities that specifically address Native American Indian culture, preservation, and affairs.

(11) Letters, statements, and documents from tribes in and outside of South Carolina which attest to the Indian heritage of the group.

B. Native American Indian Group - requirements 1 through 5 must be satisfactorily met to achieve State Recognition. Requirement 6 is optional.

(1) The group headquartered in South Carolina and indigenous to this State.

(2) Assembled as a "Group" for a minimum of three years, and entity meets all the characteristics of a "Group" as defined in R. 139-102 (E).

(3) Organized for the purpose of preserving, documenting and promoting the Native American Indian culture and history, and have such reflected in its by-laws.

(4) Exist to meet one or more of the following needs of Native American Indian people - spiritual, social, economic, or cultural needs through a continuous series of educational programs and activities that preserve, document, and promote the Native American Indian culture and history.

(5) Claims must be supported by official records such as birth certificates, church records, school records, U.S. Bureau of the Census records, or other pertinent documents.

(6) Letters, statements, and documents from state or federal authorities, that document a history of tribal related business and activities that specifically address Native American Indian culture, preservation and affairs.

C. Native American Special Interest Organization - requirements 1 through 4 must be satisfactorily met to achieve State recognition. Requirement 5 is optional.

(1) The organization must represent the interest of Native American Indian people residing in South Carolina.

(2) The organization is recognized as a private nonprofit corporation under the laws of the State.

(3) Letters, statements, and documents from tribes attesting to the work of the organization as it promotes Native American culture and addresses socio-economic deprivation among people of Indian origin.

(4) Formed and operating for a minimum of two years.

(5) Letters, statements, and documents from state and federal authorities that document a history of tribal related business and activities that specifically address Native American Indian culture, preservation, and affairs.

139-106. Purpose of the Native American Indian Advisory Committee.

It shall be the purpose of the Native American Indian Advisory Committee to preserve the true aboriginal culture of the Americas in the State of South Carolina and to advance the Native American Indian culture by:

(A) Advising the Commission regarding Native American Indian Affairs.

(B) Identifying the needs and concerns of the Native American Indian people of South Carolina by bringing such needs and concerns to the attention of the Commission.

(C) Making recommendations to the Commission to address the needs and concerns of Native American Indian people.

(D) Inviting individuals recognized as specialists in Native American Indian Affairs and representatives of the state and federal agencies to present information to members of the Advisory Committee.

139-107. Membership Requirements for the Native American Advisory Committee. Entities who want to participate on the Native American Indian Advisory Committee must meet and comply with the following minimum requirements:

(A) The entity must have obtained State Recognition designation as either:

(1) A Tribe.
(2) A Group.

(B) Upon receiving State Recognition, the tribal council, and/or governmental authority of the “Tribe” or “Group” must provide in writing to the Commission, the name, address, and telephone number of the voting representative to serve on the Advisory Committee. Designees shall continue to serve until such time as the Executive Director of the Commission is notified in writing of a change by the appointing tribal council and/or governmental authority.

(C) Additionally, representatives from the following organizations shall serve as non-voting advisors to members of the Native American Indian Advisory Committee:

(1) Office of the Governor.
(2) Office of the State Archeologist.
(3) Federally Recognized Tribes.
(4) Commission for Minority Affairs.
(5) Representatives from South Carolina state agencies having a vested interest in Native American affairs.

(D) The Chair of the Native American Indian Advisory Committee shall be the Executive Director of the Commission for Minority Affairs or a designee appointed by the Executive Director.

(E) The Native American Indian Advisory Committee serves at the pleasure of the Board of the Commission for Minority Affairs.

(F) The Native American Indian Advisory Committee shall meet at least twice a year or at the call of the chair.

(G) The Native American Indian Advisory Committee may establish subcommittees to carry out its purpose.

139-108. Membership, Terms, and Voting Power of the State Recognition Committee.

(A) The State Recognition Committee shall consist of five (5) members:

(1) The State Archeologist.
(2) The Executive Director of the Commission for Minority Affairs.
(3) Two members of the Native American Indian Advisory Committee.
(4) One notable Native American leader or scholar from across the United States, excluding South Carolina.

(B) The State Archaeologist and the Executive Director of the Commission for Minority Affairs shall serve indefinitely. The Executive Director of the Commission for Minority Affairs shall serve as chair of the State Recognition Committee. The three remaining positions shall serve for two-year terms beginning July 1 and ending June 30 of each two-year term.

(C) Initially, three persons shall compose the Interim State Recognition Committee. This interim group shall consist of:

(1) The State Archeologist.
(2) The Executive Director of the Commission for Minority Affairs.
(3) One representative from a South Carolina Native American Indian entity or notable Native American leader or scholar from across the United States, to be decided by the State Archaeologist and the Executive Director of the Commission for Minority Affairs.

(D) The two entities first obtaining State Recognition shall take their seats on the following July 1 and will represent the Native American Indian Advisory Committee on the State Recognition Committee. Thereafter, the two members representing the Native American Indian Advisory Committee shall be selected by the Committee members, by majority vote from among those “Tribes” and “Groups” having obtained State Recognition.

(E) Upon seating the first two entities to obtain State Recognition on the State Recognition Committee, the four members of the State Recognition Committee shall select one person to fill the seat designated for “One representative from a South Carolina Native American Indian entity or a notable Native American leader or scholar from across the United States.” The four State Recognition Committee members may select an individual from among the following categories:

(1) State recognized “Tribe” or “Group”.
(2) Federally recognized “Tribe”.
(3) Native American Entity.
(4) Native American Leader or Scholar.

(F) Thereafter, the four members of the State Recognition Committee shall select one person from among the following categories:

(1) Federally recognized “Tribe”.
(2) Notable Native American leader or scholar from across the United States, excluding South Carolina.

(G) The establishment of the first three-member Interim State Recognition Committee shall be at the discretion of the Executive Director of the Commission for Minority Affairs. Thereafter, elections shall be held in April every other year, prior to the end of the two-year term for seating of State Recognition Committee members.

(H) An entity applying for State Recognition must receive a majority vote or three affirmative votes out of five to be recommended for State Recognition. The absence of a member or failure of a committee member to vote will be counted as an "Abstention" vote. No member may cast a vote for another member.

(I) In the event that a member is no longer able to serve due to death, illness, or other personal reasons, a written letter of resignation from the governing body of the entity represented should be sent to the Executive Director of the Commission for Minority Affairs. Upon receiving the letter of resignation, the Executive Director shall move forward to fill the vacancy and the remaining unexpired term in accordance with the guidelines set forth herein. If a member fails to participate after having been appointed to the State Recognition Committee, the Executive Director shall make the Chairperson of the Board of the Commission for Minority Affairs aware of the impact upon the State Recognition process, and the Board may vote to declare the seat vacant. If such occurs, a new appointment may be made in accordance with the manner in which the seat was filled, and in accordance with the guidelines set forth herein.

139-109. Duties of the State Recognition Committee.

(A) The State Recognition Committee shall review all information submitted to the Commission for Minority Affairs from entities seeking State Recognition as:

(1) A Tribe.
(2) A Group.
(3) A Special Interest Organization.

(B) The State Recognition Committee shall review all information submitted in accordance with R. 139-102 (D)(E)(F) and R. 139-105 (A)(B)(C), and request such information as it deems appropriate and necessary to make a recommendation to the Board of the Commission. State Recognition Committee may seek clarification through written correspondence or by meeting with an entity as it deems appropriate. The State Recognition Committee will not accept unsolicited additional documentation.

(C) The State Recognition Committee shall receive applications twice a year from entities seeking State Recognition, that being on or before April 1 and September 1 of each year.

(D) The State Recognition Committee shall make its recommendations within 120 days. The Chair of the State Recognition Committee must notify the Chair of the Board of the Commission for Minority Affairs of its recommendation regarding each entity.

(E) The Board of the Commission shall either reject or accept the recommendations of the State Recognition Committee in part, or in whole. In either event, all entities will be advised of the status of their requests and the reason for approval or rejection.

(F) Entities who fail to achieve State Recognition shall not be eligible to reapply for the same status for one year from there original date of submission, that being April 1 or September 1 and in accordance with R. 139-109(C).

139-110. Verification of Authenticity of Documents.

(A) All copies of official records and other documents submitted in support of State Recognition of Native American Indian entities must include a means for the State Recognition Committee to ascertain authenticity. In the case of official records, this may include a stamped, dated, embossed, and signed certification on the document by the office from which the record was obtained. For other documents, a signed and notarized affidavit of origin and other relevant information to support authentication is required.

(B) In those instances where records are maintained under lock and key, such as tribal rolls, adoption papers, birth certificates and other legal papers, members of the State Recognition Committee may conduct an on-site review of such documents on the premises of the entity making application. Members of the Committee may request supporting documentation on-site that provides evidence of the existence of a viable Native American Indian "Tribe", "Group", and "Organization".

ARTICLE II.

ADVISORY COMMITTEES

(Statutory Authority: S.C. Code Section 1-31-40(A)(7) and (10))

139-200. Purpose. Section 1-31-40(A)(7),(10), South Carolina Code of Laws, provides that "The Commission shall establish advisory committees representative of minority groups, as the Commission considers appropriate to advise the Commission," and "The Commission shall promulgate regulations as may be necessary to carry out the provisions of this article including, but not limited to, regulations regarding State Recognition of Native American Indian entities in the State of South Carolina;."

139-201. Scope. These rules and regulations shall be applicable to all advisory committees, except as specifically addressed separately for Native American Indians.

139-202. Duties of Advisory Committees.

A. Advise the Commission for Minority Affairs regarding socio-economic issues relevant to African Americans, Hispanics/Latinos, Asians and other ethnic minority groups in South Carolina.

B. Identify the needs and concerns of the various ethnic minorities and bring such needs and concerns to the attention of the Commission for Minority Affairs.

C. Make recommendations to the Commission for Minority Affairs to address the needs and concerns of ethnic minority groups.

139-203. Membership, Terms, Size, and Administration of the Advisory Committees.

A. The recommendation and selection of persons to serve on the Advisory Committees shall be made by the Executive Director of the Commission, with the review and approval of the Board of the Commission for Minority Affairs.

B. The committee members shall serve for two year terms and may be recommended for reappointment by the Executive Director of the Commission, with the review and approval of the Board of the Commission for Minority Affairs.

C. Advisory Committees shall not exceed twenty persons.

D. The chair of all Advisory Committees shall be the Executive Director of the Commission for Minority Affairs or a designee appointed by the Executive Director.

E. Advisory Committees serve at the pleasure of the Board of the Commission for Minority Affairs.

F. Advisory Committee members, including Native Americans, serve without compensation or per diem.

G. All meetings, documents and work produced or performed by an Advisory Committee, except as exempted by these regulations, shall be covered by the Freedom of Information Act.

Fiscal Impact Statement:

No additional cost to local or state government is anticipated because of these changes.

Statement of Rationale:

Individuals may obtain a copy of the Statement of Rationale by contacting the Executive Director of the South Carolina Commission for Minority Affairs located at 6904 North Main Street, Suite 107, Columbia, South Carolina 29203. You may reach the agency by calling (803)333-9621, extension 10.

The public may obtain copies of minutes from the public hearing and board meetings, correspondence from citizens requesting the changes to the proposed regulations, and other documents which shed light on why the proposed changes were made.

Document No. 2987

DEPARTMENT OF REVENUE
CHAPTER 7
Statutory Authority: 1976 Code Section 12-4-320

Synopsis:

The South Carolina Department of Revenue is considering amending SC Regulation 7-200.2 to no longer require the holder of a beer, wine or liquor permit or license to maintain the records of purchases of beer, wine or liquor at the location to which these beverages were delivered. This change would require that such records be maintained for three (3) years within South Carolina and be available for inspection by an authorized representative of the Department of Revenue or the State Law Enforcement Division upon ten days notice. This change will allow a person with multiple locations to consolidate the purchase records in one location within the State instead of having to maintain the purchase records for each location at that location as required now.

Instructions: Amend SC Regulation 7-200.2 to no longer require the holder of a beer, wine or liquor permit or license to maintain the records of purchases of beer, wine or liquor at the location to shich these beverages were delivered.

Text:

7-200.2. Every holder of a permit or license issued by the Department must keep and maintain at some location within the state records of all purchases of liquor, beer and wine. Such records must include the name of the seller and the date and quantity of the purchase. These reports of purchases must be kept for a period of three (3) years and upon ten days notice must be made available to the inspection of any authorized representative of the Department or the State Law Enforcement Division.

Fiscal Impact Statement:

There will be no impact on state or local political subdivisions expenditures in complying with this proposed legislation.

Statement of Rationale:

The purpose of this proposal is to amend SC Regulation 7-200.2 to no longer require the holder of a beer, wine or liquor permit or license to maintain the records of purchases of beer, wine or liquor at the location to which these beverages were delivered. This change would require that such records be maintained for three (3) years within South Carolina and be available for inspection by an authorized representative of the Department of Revenue or the State Law Enforcement Division upon ten days notice. The proposal to amend this regulation is needed to allow a person with multiple locations to consolidate the purchase records in one location within the State instead of having to maintain the purchase records for each location at that location as required now. The proposal to amend this regulation is also reasonable in that it is the department's responsibility to maintain regulations that allow a permit or license holder to maintain records in an efficient manner that is consistent with the regulatory nature of the alcoholic beverage licensing and control law.

Document No. 3033
DEPARTMENT OF REVENUE
CHAPTER 117
Statutory Authority: 1976 Code Section 12-4-320

Synopsis:

The South Carolina Department of Revenue is considering amending SC Regulation 117-334 concerning the sales and use tax and interstate commerce. The proposal would amend the regulation to clarify which tax applies, the sales tax or the use tax, to goods being shipped into South Carolina. The proposal represents the longstanding position of the Department of Revenue and is designed to assist South Carolina purchasers in determining when they are liable for the use tax.

Instruction: Amend SC Regulation 117-334 concerning the sales and use tax and interstate commerce.

Text:

117-334. Interstate Commerce

The purpose of this regulation is to determine which tax applies, the sales tax or the use tax, when tangible personal property is shipped into, or otherwise brought into, South Carolina and to address the application of the tax when goods are shipped from this State.

117.334.1 Goods coming into this State - Sales Tax:

(A) When tangible personal property is purchased for use or consumption in this State and (1) the seller is engaged or continuing within this State in the business of selling tangible personal property at retail and (2) delivery is made in this State, such sale is subject to the sales tax if the order for the future delivery of tangible personal property is sent by the purchaser to, or the subsequent delivery of the property is made by, any local branch, office, outlet or other place of business of the retailer in this State, or agent or representative operating out of or having any connection with, such local branch, office, outlet or other place of business. The term “other place of business” as used herein includes, but is not limited to, the homes of district managers, representatives, and other resident employees, who perform services in relation to the seller’s functions in this State. Participation in the transaction in any way by the local office, branch, outlet or other place of business is sufficient to sustain the sales tax.

If the conditions above are met it is immaterial (1) that the contract of sale is closed by acceptance outside the State or (2) that the contract is made before the property is brought into the State.

Delivery is held to have taken place in this State (1) when physical possession of the tangible personal property is actually transferred to the purchaser or the purchaser’s designee within this State, or (2) when the tangible personal property is placed in the mails at a point outside this State and directed to the purchaser or the purchaser’s designee in this State or (3) when the tangible personal property is placed on board a carrier at a point outside this State (regardless of shipping terms) and directed to the purchaser or the purchaser’s designee in this State.

The term “engaged or continuing within this State in the business of selling tangible personal property at retail” as used in this regulation shall have the same meaning as the term “retailer maintaining a place of business in this State” as defined in Code Section 12-36-80.

(B) When tangible personal property is brought into this State by the seller, or an agent, salesman, or other representative of the seller, for sale at a permanent or temporary location (carnivals, festivals, roadside, etc.) or from a truck or other vehicle, such sale is subject to the sales tax.

117-334.2 Goods coming into this State - Use Tax:

(A) When tangible personal property is purchased for use or consumption in this State and delivery is made in this State, such sale is subject to the use tax if the order for future delivery is sent by the purchaser directly to the seller at a point outside this State, and the property is shipped into this State from a point outside this State directly to the purchaser or the purchaser's designee, provided there is no participation whatever in the transaction by any local branch, office, outlet or other place of business of the retailer or by any agent or representative of the retailer having any connection with such branch, office, outlet, or other place of business. The term "other place of business" as used herein includes, but is not limited to, the homes of district managers, service representatives, and other resident employees, who perform substantial services in relation to the seller's functions in this State.

The purchaser is liable for the use tax on the purchases outlined above in this subsection (117.334.2(A)) until the tax is paid to the State. In addition, a receipt, that shows the South Carolina tax, from a seller who is registered with the Department of Revenue to collect and remit the tax will relieve the purchaser of the liability for the tax on the purchase. However, a seller who is registered with the Department of Revenue to collect and remit the tax has a debt to the State for the use tax required to be collected under the law. If the purchaser is not relieved from his liability for the use tax as stated above, then the Department may assess the purchaser or the seller for the use tax.

(B) When tangible personal property is otherwise brought into this State by the purchaser for first use or consumption in this State, such use or consumption is subject to the use tax. See SC Regulation 117-320.1 for information concerning property purchased and used outside of South Carolina and later used in South Carolina and see Code Sections 12-36-1320 and 12-36-150 for a special imposition of the tax on transient construction property.

(C) When tangible personal property is purchased for use or consumption in this State and the property is shipped from a point outside this State directly to the purchaser or the purchaser's designee at a point in this State, there is a rebuttable presumption that the purchase is subject to the use tax. If the receipt from a seller does not separately state the South Carolina tax, the Department may assess either the purchaser or the seller (if licensed or nexus exists) for the use tax.

117-334.3 Goods coming into this State and Delivered onto the Catawba Indian Reservation

When tangible personal property is purchased for use or consumption on the Catawba Indian Reservation and delivery is made from a retail location outside of South Carolina to the Catawba Indian Reservation, such sale, based on the provisions of Code Section 27-16-130(H), is:

(a) subject to the State use tax if the retailer is registered with the Department to remit the State tax. Local use taxes are not applicable.

(b) subject to the Tribal use tax if retailer is not registered with the Department to remit the State tax. The Tribal use tax is equal to the combined State and local tax rate for the county in which the reservation is located and in which the delivery occurs. The Catawba Indian Tribe is responsible for collecting the tribal use tax.

117-334.4 Application of the Sales or Use Tax under Other Circumstances

The application of either the sales tax or the use tax under circumstances not addressed in this regulation will be determined on a case by case basis. The determination as to which tax will apply will consider whether or not the seller, as required for the application of the sales tax under Code Section 12-36-910, is "engaged or continuing within this State in the business of selling tangible personal property at retail," whether or not the seller has sufficient "nexus" with South Carolina under current case law, and whether or not the retail sale occurs in this State.

117-334.5 Goods shipped from this State.

When tangible personal property is sold within the State and the seller is obligated to deliver it to the purchaser or to an agent or designee of the purchaser at a point outside of the State or to deliver it to a carrier or to the mails for transportation to the purchaser or to an agent or designee of the purchaser at a point outside this State, the retail sales tax does not apply provided the property is not returned to a point within the State. The most acceptable proof of transportation outside the State is:

(a) A way-bill or bill of lading made out to the seller's order and calling for delivery; or

(b) An insurance receipt or registry issued by the United States Postal Department, or a Post Office Department receipt Form 3817; or

(c) A trip sheet signed by the seller's delivery agent and showing the signature and address of the person outside this State who received the goods delivered.

However, where tangible personal property pursuant to a sale is delivered in this State to the purchaser or to an agent or designee of the purchaser, other than a common carrier, the retail sales tax applies notwithstanding that the purchaser or the purchaser’s agent or designee may subsequently transport the property out of the State.

The department will be asking the Administrative Law Court, in accordance with S.C. Code Ann. ' 1-23-111 (2005), to issue a report that the proposal to amend the regulation is needed and reasonable.

Fiscal Impact Statement:

There will be no impact on state or local political subdivisions expenditures in complying with this proposed legislation.

Statement of Rationale:
The purpose of this proposal is to amend SC Regulation 117-334 concerning the sales and use tax and interstate commerce. The proposal would amend the regulation to clarify which tax applies, the sales tax or the use tax, to goods being shipped into South Carolina. The proposal represents the longstanding position of the Department of Revenue and is designed to assist South Carolina purchasers in determining when they are liable for the use tax. The proposal to amend this regulation is needed to reduce any taxpayer confusion as to which tax applies, the sales tax or the use tax, to goods being shipped into South Carolina. The proposal to amend this regulation is also reasonable in that it is the department’s responsibility to maintain regulations that are clear and understandable and it represents the longstanding position of the Department of Revenue.

Document No. 2985
DEPARTMENT OF REVENUE
CHAPTER 117
Statutory Authority: 1976 Code Section 12-4-320

Synopsis:

The South Carolina Department of Revenue is considering amending SC Regulation 117-335 concerning the sales and use tax and manufactured and modular homes to address a change in the law in 2004 as to how modular homes are taxed and to address the issue of furniture and appliance sold with manufactured and modular homes. The portion of the proposal concerning the taxation of furniture and appliances sold with manufactured and modular homes is consistent with present Department of Revenue policy.

Instructions:

Amend SC Regulation 117-335 concerning the sales and use tax and manufactured and modular homes to address a change in the law in 2004 as to how modular homes are taxed and to address the issue of furniture and appliance sold with manufactured and modular homes.

Text:

117-335 Manufactured Homes and Modular Homes

Manufactured homes and modular homes are taxed differently under the sales and use tax code.

117-335.1 Manufactured Homes

The basis upon which the tax is calculated on a manufactured home (as defined in Code Section 40-29-20) is only sixty-five percent of the "gross proceeds of sales" as defined in Code Section 12-36-90.

The maximum tax due on the sale of a manufactured home is $300 if the home meets certain energy efficient standards as set forth in Code Section 12-36-2110(B). If the home does not meet these energy efficient standards, then the maximum tax is $300 plus 2% of the basis upon which the tax is calculated that exceeds $6,000. A manufactured home is energy efficient if it meets the following energy efficiency levels as set forth in Code Section 12-36-2110(B): "storm or double pane glass windows, insulated or storm doors, a minimum thermal resistance rating of the insulation only of R-11 for walls, R-19 for floors, and R-30 for ceilings. However, variations in the energy efficiency levels for walls, floors, and ceilings are allowed and the exemption on tax due above three hundred dollars applies if the total heat loss does not exceed that calculated using the levels of R-11 for walls, R-19 for floors, and R-30 for ceilings. The edition of the American Society of Heating, Refrigerating, and Air Conditioning Engineers Guide in effect at the time is the source for heat loss calculation. The dealer selling the manufactured home must maintain records, on forms provided by the State Energy Office, on each manufactured home sold which contains the above calculations and verifying whether or not the manufactured home met the energy efficiency levels provided for in this subsection. These records must be maintained for three years and must be made available for inspection upon request of the Department of Consumer Affairs or the State Energy Office."

Local sales and use taxes that are administered and collected by the Department of behalf of local jurisdictions do not apply to manufactured homes.

The retail sale upon which the tax is based is the sale by the retailer to the consumer home buyer or contractor). See Code Section 12-36-2120(B).

117-335.2 Modular Homes

The basis upon which the tax is calculated on a modular home (as regulated in Chapter 43 of Title 23) is only fifty percent of the "gross proceeds of sales" as defined in Code Section 12-36-2120(34). A modular home regulated under Chapter 43 of Title 23 cannot be considered a manufactured home, even if the home meets the definitional requirements of a manufactured home in Code Section 40-29-20.

The maximum tax provisions do not apply to modular homes. Local sales and use taxes that are administered and collected by the Department of behalf of local jurisdictions do apply to modular homes.

The retail sale upon which the tax is based is the sale by the manufacturer to either the modular home dealer or home buyer, whichever is applicable. See Code Section 12-36-2120(34).

117-335.3 Other Factory Fabricated Buildings

Sales of portable classrooms and storage type manufactured buildings, recreational vehicles (RVs), travel trailers, campers, manufactured condominiums and units, and like tangible personal property are not considered sales of manufactured homes or modular homes.

117-335.4 Furniture and Appliance

Furniture and appliances are not considered a part of a manufactured or modular home, unless they are built-ins. For example, televisions, counter appliances, sofas, chairs and tables, even though sold with a home, are not a part of the home. Because these items are not a part of the home, they are taxed separately from the home at 5%, plus any applicable local sales and use tax, of their sales price less any trade-in allowed. The amount upon which the tax is calculated on furniture and appliances that are not built ins is the amount listed in the sales contract for these items or the retail fair market value of these items if the amounts for these items are not listed in the contract or if the amounts listed in the contract do not reasonably represent the retail fair market value of these items.

Items such as disposals, built-in dishwashers, and built-in stoves are considered a part of the home and are not taxed separately from the home if installed at the time of the retail sale of the home.

Fiscal Impact Statement:

There will be no impact on state or local political subdivisions expenditures in complying with this proposed legislation.

Statement of Rationale:

The purpose of this proposal is to amend SC Regulation 117-335 concerning the sales and use tax and manufactured and modular homes to address a change in the law in 2004 as to how modular homes are taxed and to address the issue of furniture and appliances sold with manufactured and modular homes. The portion of the proposal concerning the taxation of furniture and appliances sold with manufactured and modular homes is consistent with present Department of Revenue policy.

The proposal to amend SC Regulation 117-335 is needed to reduce any taxpayer confusion that may result from having a published regulation that is no longer consistent with the law and is needed to address through a regulation the taxation of furniture and appliances sold with manufactured and modular homes. The proposal to amend this regulation is also reasonable in that it is the department's responsibility to maintain regulations that are up-to date and consistent with the law.

Document No. 3032

DEPARTMENT OF REVENUE

CHAPTER 117

Statutory Authority: 1976 Code Section 12-4-320

Synopsis:

The South Carolina Department of Revenue is considering repealing SC Regulation 117-318.1 since this regulation is no longer needed due to a change in the sales and use tax law on warranty agreements that became effective October 1, 2005 as a result of Act 161, Section 19, of 2005. This regulation concerns the application of the sales and use tax to charges for warranty agreements.

Text:

Regulation 117-318.1 is repealed.

Fiscal Impact Statement:

There will be no impact on state or local political subdivisions expenditures in complying with this proposed legislation.

Statement of Rationale:

The purpose of this proposal is to repeal SC Regulation 117-318.1 concerning the application of the sales and use tax to charges for warranty agreements. Since the sales and use tax law on warranty agreements changed effective October 1, 2005 as a result of Act 161, Section 19, of 2005, SC Regulation 117-318.1 is no longer needed. The proposal to repeal this regulation is needed to reduce any taxpayer confusion that may result from having a published regulation that is no longer needed. The proposal to repeal this regulation is also reasonable in that it is the department's responsibility to maintain regulations that are up-to date and consistent with the law.

Document No. 2983
DEPARTMENT OF REVENUE
CHAPTER 117
Statutory Authority: 1976 Code Section 12-4-320

Synopsis:

The South Carolina Department of Revenue is considering amending SC Regulation 117-328 concerning the sales and use tax and radio and television stations to delete the last paragraph of the regulation. This paragraph concerns outdated "wired music." Such music is now transmitted via satellite and the charges for such transmissions, in the opinion of the Department, are subject to the tax under Code Sections 12-36-910(B)(3) and 12-36-1310(B)(3)) which impose the sales tax and use tax on charges for the ways or means for the transmission of the voice or messages. In addition, the last sentence of the paragraph concerning the proceeds from wired music is in conflict with the provisions of Code Sections 12-36-910(B)(3) and 12-36-1310(B)(3).

Instructions: Amend SC Regulation 117-328 concerning the sales and use tax and radio and television stations is amended to read:

Text:

117-328. Code Section 12-36-2120(26) exempts from the tax the sale of "all supplies, technical equipment, machinery and electricity sold to radio and television stations, and cable television systems, for use in producing, broadcasting or distributing programs. For the purpose of this exemption, radio, and television stations, and cable television systems are deemed to be manufacturers."

In light of the last sentence hereinabove, another statutory exemption (Code Section 12-36-2120(17)) is available. It reads that there is exempted from the measure of the tax levied, assessed or payable, "The gross proceeds of the sale of ... machines used in ... compounding, processing and manufacturing of tangible personal property; provided that the term 'machines,' as used in this article, shall include the parts of such machines, attachments and replacements therefor which are used, or manufactured for use, on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used; but this exemption shall not include automobiles or trucks ..."

An AM radio station is defined as a broadcasting station licensed by the Federal Communications Commission for the transmission of radiotelephone emissions primarily intended to be received by the general public and operated on a channel in the band 535-1605 kc/s. An FM radio station, including non-commercial educational radio stations, would come within the same definition except that it is operated on a channel in the band 88.1-107.9 mc/s. A television broadcasting station would also come within the same definition except that it is licensed to transmit both visual and aural radiotelephone emissions and is to be operated in the 54-890 mc/s frequency.

Sales of electricity to radio and television stations for use directly in producing programs and in broadcasting, and to provide necessary lighting therefor, are exempted from the sales and/or use tax. Also, electricity to operate air conditioning machinery necessary to the operation of exempt technical equipment and machinery and for live telecast is exempt from the tax.

Sales of electricity for any other purpose are subject to the tax, such as, but not limited to, electricity used in administrative offices, supervisory offices, parking lots, storage warehouses, maintenance shops, safety control, comfort air conditioning, elevators, housekeeping equipment and machinery, cafeterias, canteens, first aid rooms, supply rooms, water coolers, drink boxes and unit heaters.

The exemption applies to all purchases or rentals of supplies for use directly in the preparation of programs and in broadcasting, to include flash bulbs, paper supplies, stage properties when customarily re-used, such as stock articles of furniture and equipment, props (including materials from which props are fabricated), film, recording tape, artists supplies, chemicals for use in developing films, syndicated and feature films, phonograph records, transcriptions, script services, sheet music, syndicated tape and transcribed programs.

The term "technical equipment and machinery" is defined as specialized equipment and machinery peculiar to the industry when purchased for use directly in preparing programs or broadcasting. The term shall likewise include replacement parts and attachments therefor, and power wiring or cable connecting exempt technical equipment and machinery when such wiring is not built into and a part of a building or structure.

Examples of exempt technical equipment and machinery used in programming are timers, splicers, viewers, sound readers, projectors, screens, editing tables and lighting boards, darkroom equipment and machinery used for developing film for use in preparing programs, and cameras, recorders and mobile equipment and machinery (not including automobiles and trucks) used by station employees in newsgathering and in transmission.

Examples of studio technical equipment and machinery are: For radio stations, turntables, microphones, audio consoles, tape recorders, headphones and speech input equipment.

For television stations, all of the foregoing, and in addition, video switching equipment, cameras, film chains, slide projectors, film projectors, studio lighting and studio dimmer or light control boards.

Transmission equipment consists of AM, FM, and TV transmitters complete, to include coaxial cables or transmission lines connecting antennas to transmitters.

Antenna equipment consists of the antenna proper, not including towers and lights. (Note, however, when the tower is the antenna, as in AM radio, it is deemed to be exempt technical equipment.)

Purchases of broadcast testing machinery used primarily for the purpose of maintaining audio or visual transmission quality are not subject to the tax.

Machines, including typewriters, purchased for use primarily in producing program logs are exempted from the tax.

Machinery purchased for use in fabricating backdrops or props is not subject to the tax.

Subject to the tax are purchases of standard or stock articles of office equipment, such as desks, chairs, typewriters, billing machines, filing cabinets, film storage cabinets and general office supplies used in billing customers and for general office use; machinery, equipment and supplies (not including, however, tubes and replacement parts) for use in repairing technical equipment or machinery; and all purchases of building materials for use in constructing a building or structure, to include soundproofing materials for studios, radio or television towers (except as indicated hereinabove), plumbing fixtures, pipe, wiring, structural foundations (even though for exempt equipment or machinery) and air conditioning ductwork. (Note, however, that air conditioning machinery necessary to the production of live telecast and for the proper functioning of exempt technical equipment and machinery is not subject to the tax.)

Fiscal Impact Statement:

There will be no impact on state or local political subdivisions expenditures in complying with this proposed legislation.

Statement of Rationale:

The purpose of this proposal is to amend SC Regulation 117-328 concerning the sales and use tax and radio and television stations to delete the last paragraph of the regulation. This paragraph concerns outdated “wired music.” Such music is now transmitted via satellite and the charges for such transmissions, in the opinion of the Department, are subject to the tax under Code Sections 12-36-910(B)(3) and 12-36-1310(B)(3)) which impose the sales tax and use tax on charges for the ways or means for the transmission of the voice or messages. In addition, the last sentence of the paragraph concerning the proceeds from wired music is in conflict with the provisions of Code Sections 12-36-910(B)(3) and 12-36-1310(B)(3). The proposal to amend this regulation is needed to reduce any taxpayer confusion that may result from having a paragraph in a published regulation that is no longer needed and that is in conflict with the law. The proposal to amend this regulation is also reasonable in that it is the department’s responsibility to maintain regulations that are up-to date and consistent with the law.

Document No. 3044
DEPARTMENT OF SOCIAL SERVICES
CHAPTER 114

Statutory Authority: South Carolina Code Section 43-5-580(b) and Code of Federal Regulations 302.56

4710 – 4750. Child Support Guidelines

Synopsis:

In order to maintain compliance with state and federal law and regulations, the South Carolina Department of Social Services proposes amending regulations concerning child support guidelines. The Family Support Act of 1988 [P.L. 100-485] requires that at least every four years the Guidelines be reviewed and updated to reflect the latest economic data on child-rearing costs and that their application results in adequate support award amounts [South Carolina Code of Laws, 1976, as amended, Sections 43-5-580(b) and 20-7-852].

This revision includes several changes. The income tables have been adjusted to reflect combined incomes up to $240,000 per year. The child support amounts in the tables themselves have been updated to reflect the higher costs of living and raising children that have occurred since the last version, and child care tax credits have been

adjusted to reflect changes in the IRS Tax Code. In addition, the Self Support Reserve amount has been increased from $500 to $748, and the minimum child support order amount has been raised from $50 per month to $100 per month.

Section-by-Section Discussion

1. The introduction, covering the origin of the Income Shares Guidelines model and methodology.

2. This section describes the appropriate application of the guidelines; household gross income; range of the tables; provision and reasons for deviation.

3. This section defines gross income and exclusions; use of potential income; verification of income; credit for other children in the home; basic child support obligation, self support reserve; health insurance; child care costs.

4. This portion addresses unusual custody arrangements, primarily shared parenting and split custody

5. This chapter explains the federal requirement for, and exceptions to, periodic review of support orders.

6. This portion contains the Guidelines schedule and worksheets.

7. This portion describes the structure and functions of the Child Support Enforcement Division and provides contact information.

Instructions:

Replace the current regulations, Chapter 114, Sections 4710 – 4740, inclusive, with the following text.

Text:

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1. INTRODUCTION

The South Carolina General Assembly, through Act 195 of 1989, provides that the child support guidelines must be applied by the courts in determining the amount of child support that is expected to be paid toward the support of a dependent child (Section 43-5-580(b) and 20-7-852(a), South Carolina Code of Laws, 1976, as Amended).

These guidelines are based on the Income Shares Model, developed by the Child Support Guidelines Project of the National Center for State Courts. Developed with the best available economic evidence on child rearing expenditures, the Income Shares Model is based on the concept that the children should receive the same proportion of parental income that they would have received had the parents lived together. A more detailed explanation of the Income Shares Model and the underlying economic evidence used to support it is contained in Development of Guidelines for Child Support Orders, Report to the Federal Office of Child Support Enforcement, September 1987 (National Center for State Courts, Denver, Colorado).

The Income Shares Model calculates child support as the share of each parent's income which would have been spent on the children if the parents and children were living in the same household. The shares are based on the amount of money ordinarily spent on children by their families living in the United States and adjusted to South Carolina cost of living levels. This evidence indicates that individuals tend to spend money on their children in proportion to their income, and not solely on need. The expenditures include the following nine categories: food at home; food away from home; shelter; utilities; household goods (furniture, appliances, linens, floor coverings, and house wares); clothing; transportation (other than visitation related); ordinary health care; and recreation. Excluded from these expenditure categories are estimated expenditures for child care and extraordinary medical expenses, which have been subtracted because they are added to child support on an as-paid basis. Also excluded from these estimates are personal insurance (e.g. life, disability), gifts, contributions, and savings. Because mortgage principal (as opposed to interest) is considered to be savings, it is not included in the estimates of child-rearing expenditures.

These guidelines and the accompanying worksheets assume that the custodial parent is spending his or her calculated share directly on the child. For the noncustodial parent, the calculated amount establishes the level of child support to be given to the custodial parent for support of the child.

2. USE OF THE GUIDELINES

A. The Child Support Guidelines are available to be used for temporary and permanent orders, actions for separate maintenance and support, divorce and child support awards. Additionally, the guidelines are to be used to assess the adequacy of agreements for support and encourage settlement of this issue between parties.

1. In any proceeding in which child support is an issue, the amount of the award which would result from the application of these guidelines is the amount of the child support to be awarded. However, a different amount may be awarded upon a showing that application of the guidelines is inappropriate. When the court orders a child support award that varies significantly from the amount resulting form the application of the guidelines, the court shall make specific, written findings of those facts upon which it bases its conclusion supporting that award.

2. In cases where the parents' combined monthly gross income is less than $750.00, the guidelines provide for a case-by-case determination of child support, which should ordinarily be set at no less than $100.00 per month. In those cases, the court should take care to award an amount of child support that would not jeopardize the ability of the noncustodial parent to live at a minimum level of subsistence. However, the guidelines encourage that a specific amount of child support always be ordered to establish in the payer's mind the principle of the parent's obligation to pay as well as lay the basis for increased/decreased orders if income changes in the future.

3. These guidelines provide for calculated amounts of child support for a combined parental gross income of up to $20,000 per month, or $240,000 per year. Where the combined gross income is higher, courts should determine child support awards on a case-by-case basis.

B. Deviation from the guidelines should be the exception rather than the rule. When the court deviates, it must make written findings that clearly state the nature and extent of the variation from the guidelines. These Child Support Guidelines do not take into account the economic impact of the following factors which can be possible reasons for deviation.

1. Educational expenses for the child(ren) or the spouse (i.e., those incurred for private, parochial, or trade schools, other secondary schools, or post-secondary education where there is tuition or related costs);

2. Equitable distribution of property;

3. Consumer debts;

4. Families with more than six children;

5. Unreimbursed extraordinary medical/dental expenses for the noncustodial or custodial parent;

6. Mandatory deduction of retirement pensions and union fees;

7. Child-related unreimbursed extraordinary medical expenses;

8. Monthly fixed payments imposed by court or operation of law;

9. Significant available income of the child(ren);

10. Substantial disparity of income in which the noncustodial parent's income is significantly less than the custodial parent's income, thus making it financially impracticable to pay the amount the guidelines indicate the noncustodial parent should pay. This would include situations where the noncustodial parent is disabled and cannot earn above the minimum subsistence level;

11. Alimony. Because of their unique nature, lump sum, rehabilitative and reimbursement alimony may be considered by the court as a possible reason for deviation from these guidelines;

12. Agreements Reached Between Parties. The court may deviate from the guidelines based on an agreement between the parties if both parties are represented by counsel or if, upon a thorough examination of any party not represented by counsel, the court determines the party fully understands the agreement as to child support. The court still has the discretion and the independent duty to determine if the amount is reasonable and in the best interest of the child(ren).

3. DETERMINATION OF CHILD SUPPORT AWARDS

3.1 Income

3.1.1 Definition

The guidelines define income as the actual gross income of the parent, if employed to full capacity, or potential income if unemployed or underemployed. Gross income is used in order to avoid contention over issues of deductibility which would otherwise arise if net income were used. The guidelines are based on the assumption that the noncustodial parent will have only one federal exemption and will have higher taxes than the custodial parent. Adjustments have been made in the Schedule of Basic Child Support Obligation for lower child support payments. Other factors included in the schedule are South Carolina taxes, FICA, and earned income.

3.1.2 Gross Income

Gross income includes income from any source including salaries, wages, commissions, royalties, bonuses, rents (less allowable business expenses), dividends, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits (but not Supplemental Social Security Income), workers' compensation benefits, unemployment insurance benefits, Veterans' benefits and alimony, including alimony received as a result of another marriage and alimony which a party receives as a result of the current litigation. Unreported case income should also be included if it can be identified.

1. The court may also take into account assets available to generate income for child support. For example, the court may determine the reasonable earning potential of any asset at its market value and assess against it the current treasury bill interest rate or some other similar appropriate method of computing income.

2. In addition to determining potential earnings, the court should impute income to any non-income producing assets of either parent, if significant, other than a primary residence or personal property. Examples of such assets are vacation homes (if not maintained as rental property) and idle land. The current rate determined by the court is the rate at which income should be imputed to such nonperforming assets.

3.1.3 Gross income does not include:

1. Benefits received from means-tested public assistance programs, such as Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps and General Assistance;

2. Income derived by other household members; and/or

3. In-kind income; however, the court should count as income expense reimbursements or in-kind payments received by a parent from self-employment or operation of a business if they are significant and reduce personal living expenses, such as a company car, free housing, or reimbursed meals. With regard to military allotments, individuals not receiving Housing allotments should be imputed with the BAH-II amount for dependents. This differential is consistent and unrelated to the domicile location of the service member, as well as easily obtained.

3.1.4 Income from Self-Employment or Operation of a Business

For income from self-employment, proprietorship of a business, or ownership or a partnership or closely held corporation, gross income is defined as gross receipts minus ordinary and necessary expenses required for self-employment or business operation, including employer's share of FICA. However, the court should exclude from those expenses amounts allowed by the Internal Revenue Service for accelerated depreciation of investment tax credits for purposes of the guidelines and add those amounts back in to determine gross income. In general, the court should carefully review income and expenses from self-employment or operation of a business to determine actual levels of gross income available to the parent to satisfy a child support obligation. As may be apparent, this amount may differ from the determination of business income for tax purposes.

3.1.5 Potential Income

If the court finds that a parent is voluntarily unemployed or underemployed, it should calculate child support based on a determination of potential income which would otherwise ordinarily be available to the parent. If income is imputed to a custodial parent, the court may also impute reasonable day care expenses. Although Temporary Assistance to Needy Families (TANF) and other means-tested public assistance benefits are not included in gross income, income may be imputed to these recipients. However, the court may take into account the presence of young children or handicapped children who must be cared for by the parent, necessitating the parent's inability to work.

1. The court may also wish to factor in considerations of rehabilitative alimony in order to enable the parent to become employed.

2. In order to impute income to a parent who is unemployed or underemployed, the court should determine the employment potential and probable earnings level of the parent based on that parent's recent work history, occupational qualifications, and prevailing job opportunities and earning levels in the community.

3.1.6 Income Verification

Ordinarily, the court will determine income from verified financial declarations required by the Family Court rules. However, in the absence of any financial declaration, or where the amounts reflected on the financial declaration may be an issue, the court may rely on suitable documentation of current earnings, preferably for at least one month, using such documents as pay stubs, employer statements, or receipts and expenses if the parent is self-employed. Verification of current earnings, whether reflected on a financial declaration or not, can be supported with copies of the most recent tax returns filed by the payer. Income can also be verified through the Employment Security Commission or through the State Department of Revenue.

3.2 Monthly Alimony (this action)

Any award of alimony between the parties should be taken into consideration by the court when utilizing these guidelines as a deduction from the payer spouse's gross income, and as gross income received by the recipient spouse. Because of their unique nature, lump sum, rehabilitative reimbursement, or any other alimony the court may award, may be considered by the court as a possible reason for deviation from these guidelines. The purpose of this adjustment is not to give priority to alimony or child support payments, but to recognize that each parent's proportional share of total combined monthly income changes with the introduction of any alimony award between the parties, and to provide for a sharing of the Total Combined Monthly Child Support Obligation based upon each parent's actual percentage share of the total combined monthly income, taking into consideration the financial impact of any alimony award between them, rather than the parent's share of the total combined monthly income as it existed before any alimony award. Accordingly, the court, in its discretion, may consider any modification or termination of any alimony award between the parties of a child support award made under these guidelines. This adjustment does not affect the Total Combined Monthly Child Support Obligation of both parents as determined under these guidelines, which may be determined before any determination on the issue of alimony, as the total combined monthly income of both parties will remain the same irrespective of any income shifting between the parents as the result of an alimony award.

3.3 Other Monthly Alimony or Child Support Paid

Any previous or existing court orders requiring the payment of child support, alimony, or both, should be protected by any subsequent child support order. Alimony actually paid as a result of another marriage or child support actually paid for the benefit of children other than those considered in this computation, to the extent such payment or payments are required by a previous or existing court order, should be deducted from gross income.

3.4 Other Children in the Home

Either parent shall receive credit for additional natural or adopted children living in the home, but not for step-children, unless a court order establishes a legal responsibility. Such credit shall be given whether or not such children are supported by a third party. The basis of this is to recognize the custodial parent's responsibility and share in supporting those other children in the home just like that parent's responsibility and share to the child or children in the present calculation.

Using the income of the parent with the additional child(ren) in the home only, the basic child support obligation for the number of additional dependents living with that parent (from the Schedule of Basic Child Support Obligations) is determined for that parent. This figure is multiplied by .75 and the resulting credit is subtracted from that parent's gross income.

3.5 Basic Child Support Obligation

The court can determine the basic child support obligation using the Schedule of Basic Child Support Obligations. "Combined gross income" refers to the combined monthly gross incomes of the parents. Where combined gross income amounts fall between the amounts reflected in the Schedule of Basic Child Support Obligations, the court is encouraged to extrapolate upwardly to set the basic award. The number of children refers to that number for whom the parents share support responsibility and for whom support is being sought.

3.6 Self Support Reserve

A self support reserve allows a low-income noncustodial parent to retain a minimal amount of income before being assessed a full percentage of child support. This insures that the noncustodial parent has sufficient income available to maintain a minimum standard of living which does not affect negatively his or her earning capacity, incentive to continue working, and ability to provide for him or herself. These Guidelines incorporate a self support reserve of $748.00 per month. In order to safeguard the self support reserve in cases where the noncustodial parent's income and corresponding number of children fall within the shaded area of the Schedule of Basic Child Support Obligations, the support obligation must be calculated using the noncustodial parent's income only. To include the custodial parent's income in the calculation of such cases, or include any adjustments like medical insurance or day care expense, would reduce the noncustodial parent's net income below the self support reserve.

3.7 Health Insurance

The court shall consider provisions for adequate health insurance coverage for children in every child support order. Ordinarily, the court should require coverage by that parent who can obtain the most comprehensive coverage through an employer or otherwise, at the most reasonable cost. If either parent carries health insurance for the child(ren) who is to receive support, the cost of the coverage should be added. If the employer provides some measure of coverage, only that amount actually paid by the employee or contributed by the employee should be added. Note that the portion of the health insurance premium which covers the children is the only expense that should be added. If this amount cannot be verified, the total cost of the premium should be divided by the total number of persons covered by the policy and then multiplied by the number of children in the support order. Whichever party is responsible for paying the health insurance premium will receive a credit. The guidelines are based on the assumption that the custodial parent will be responsible for up to $250.00 per year per child in uninsured medical expenses. Extraordinary medical expenses, not addressed in the guidelines, are defined as reasonable and necessary uninsured medical expenses in excess of $250.00 per year per child. Under this definition, what is "reasonable and necessary" – e.g. orthodontia and professional counseling – would be at the discretion of the court. Extraordinary unreimbursed medical expenses addressed by the court shall be divided in pro rata percentages based on the proportional share of combined monthly adjusted gross income.

3.8 Child Care Costs

The cost of day care the parent incurs due to employment or the search for employment, net of the federal income tax credit for such day care, is to be added to the basic obligation. This is to encourage parents to work and generate income for themselves as well as their children. However, day care costs must be reasonable, not to exceed the level required to provide high quality care for children from a licensed provider.

As custodial parents may be eligible for qualified tax credits, the actual day care expense should be adjusted to recognize this credit. This adjustment may take place in two ways. In cases where the custodial parent's gross income exceeds the thresholds listed below, the actual or allowed day care cost is multiplied by .75 to arrive at the adjusted amount to enter on the appropriate line 6.c.

	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
Custodial Parent Monthly Income	$1,950	$2,300	$2,450	$2,600	$2,850	$3,100

These thresholds are based upon the standard deduction for head-of-household, dependent exemptions, and the intricate application of the child care tax credit. While these will hold true in most cases, judges can always review child care costs with the actual credit method, below.

The other method would be to take the actual costs and subtract the actual value of the federal tax credit such as determined by the last filed IRS Form 2441. This adjusted amount would then be entered on line 6.c.

3.9 Age Adjustment

Economic research suggests that expenditures on children increase during teenage years. Such research indicates that expenditures on children in the 12-17 age group are significantly higher than expenditures on children in the 0-11 age group. Given that child-rearing expenditures are higher for older children, an issue in the development of guidelines is whether there should be age adjustments; that is, whether the guidelines should incorporate separate scales by age of the children. However, since these guidelines are based on economic data which represent estimates of total expenditures on child rearing up to age eighteen, except for child care and most health care costs, the need for separate scales has been eliminated.

3.10 Computation of Child Support

The court can determine a total child support obligation by adding the basic child support obligation, health insurance premium (portion covering children), and work related child care costs.

1. The total child support obligation is divided between the parents in proportion to their income. Each parent's proportional share of combined adjusted gross income must be calculated. Compute the obligation of each parent by multiplying each parent's share of income by the total child support obligation, and give the necessary credit for adjustments to the basic combined child support obligation.

2. Although a monetary obligation is computed for each parent, the guidelines presume that the custodial parent will spend that parent's share directly on the child in that parent's custody. In cases of joint custody or split custody, where both parents have responsibility of the child for a substantial portion of the time, there are provisions for adjustments.

4. UNUSUAL CUSTODY ARRANGEMENTS

4.1 Shared Parenting Arrangements

When both parents are deemed fit, and other relevant logistical circumstances apply, shared custody should be encouraged in order to ensure the maximum involvement by both parents in the life of the child.

The shared custody adjustment, however, is advisory and not compulsory. The court should consider each case individually before applying the adjustment to ensure that it does not produce a substantial negative effect on the child(ren)'s standard of living.

For the purpose of this section, shared physical custody means that each parent has court-ordered visitation with the children overnight for more than 109 overnights each year (30%) and that both parents contribute to the expenses of the child(ren) in addition to the payment of child support. If a parent with visitation does not exercise the visitation as ordered by the court, the custodial parent may petition the court for a reversion to the level of support calculated under the guidelines without the shared parenting adjustment. The shared physical custody adjustment is an annual adjustment only and should not be used when the proportion of overnights exceeds 30% for a shorter period, e.g., a month. For example, child support is not abated during a month-long summer visitation. This adjustment should be applied without regard to legal custody of the child(ren). Legal custody refers to decision-making authority with respect to the child(ren). If the 109 overnights threshold is reached for shared physical custody, this adjustment may be applied even if one parent has sole legal custody.

1. Child support for cases with shared physical custody shall be calculated using Worksheet C. This worksheet should be used only for shared physical custody as defined above.

2. The basic child support obligation shall be multiplied by 1.5 to arrive at a shared custody basic child support obligation. The shared custody basic child support obligation is apportioned to each parent according to his or her income. In turn, a child support obligation is computed for each parent by multiplying that parent's portion of the shared custody child support obligation by the percentage of time the child(ren) spend(s) with that parent. The respective basic child support obligations are then offset, with the parent owing more basic child support paying the difference between the two amounts. The transfer for the basic obligation for the parent owing less basic child support shall be set at zero dollars.

3. Adjustments for each parent's additional direct expenses on the child(ren) are made by adding child(ren)'s share of any reimbursed child health care expenses, work-related child care expenses and any other extraordinary expenses agreed to by the parents or ordered by the tribunal, less any extraordinary credits agreed to by the parent or ordered by the tribunal according to their income share. In turn, each parent's net share of additional direct expenses is determined by subtracting the parent's actual direct expenses on the child(ren)'s share of any unreimbursed child health care expenses, work-related child care expenses and any other extraordinary expenses agreed to by the parents or ordered by the tribunal from their share. The parent with a positive net share of additional direct expenses owes the other parent the amount of his or her net share of additional direct expenses. The parent with the zero or a negative net share of additional expenses owes zero dollars for additional direct expenses.

4. The final amount of the child support order is determined by summing what each parent owes for the basic support obligation and additional direct expenses as defined in subsections (2) and (3) of this section. The

respective sums are then offset, with the parent owing more paying the other parent the difference between the two amounts.

4.2 Split Custody

Split custody refers to custody arrangements where there are two or more children and each parent has physical custody of at least one child. Using these guidelines, the court should determine a theoretical support payment for the child or children in the custody of the other. The obligation is then offset, with the parent owing the larger amount paying the next amount to the other parent. In split custody arrangements the guidelines arrive at separate computations for the child or children residing with each parent. The support obligation must then be prorated among all children in the household. For example, if there are three children due support, with two residing with one parent and one with the other, the court should calculate support amounts using the table for three children, with one-third of that amount being used to determine the basic child support obligation for one child and two-thirds for the other two children.

5. PERIODIC REVIEW

Pursuant to Title IV-D of the Social Security Act, the Department of Social Services is required to periodically review child support orders not later than thirty-six months after the establishment of the order or the most recent review unless:

1. In a TANF case, neither party has requested a review and the Department of Social Services has determined that a review is not in the child's best interest; or

2. In a non-TANF case, neither party has requested a review.

6. CHILD SUPPORT GUIDELINES SCHEDULE AND WORKSHEETS

South Carolina Child Support Guidelines Schedule and worksheets are specifically incorporated into these regulations by reference. Copies of the Schedule and worksheets are on file with the Legislative Council and may also be obtained from the State Department of Social Services and local clerks of court offices.

Preliminary Fiscal Impact Statement:

The fiscal impact will be nominal, to cover the costs of printing and distribution.

Statement of Rationale:

In accordance with the Mission Statement of the Department of Social Services, it is incumbent upon the Child Support Enforcement Division to, ". . . ensure the safety and health of children . . . and to assist those in need . . .". The purpose of the quadrennial review of the Guidelines is to ensure that the integrity of the Income Shares Model is maintained by regular review and assessment of the numerous issues inherent in the formulae. This model, based on the concept that children should receive the same proportion of parental income that they would have received had the parents lived together, is the one best suited to the needs of the children and families of South Carolina.